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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 28th November, 2019:—

BILL NO. 364 OF 2019

A Bill to consolidate and amend the laws relating to Trade Unions, conditions of employment in industrial establishment or undertaking, investigation and settlement of industrial disputes and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Industrial Relations Code, 2019.

(*2*) It shall extend to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Code, unless the context otherwise requires,—

(*a*) "appellate authority" means an authority appointed by the appropriate Government to exercise such functions in such area as may be specified by that Government by notification in the Official Gazette;

(*b*) "appropriate Government" means,—

(*i*) in relation to an industrial establishment or undertaking carried on by or under the authority of the Central Government, railways, mines, oil field, major ports, air transport service, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or a central public sector undertaking, subsidiary companies set up by the principal undertakings or autonomous bodies owned or controlled by the Central Government including establishments of the contractors for the purposes of such establishment, corporation, other authority, public sector undertakings or subsidiary companies, as the case may be, the Central Government;

(*ii*) in relation to any other industrial establishment or undertaking or a branch thereof situated in a State, the State Government;

(*c*) "average pay" means the average of the wages payable to a worker,—

(*i*) in the case of monthly paid worker, in three complete calendar months;

(*ii*) in the case of weekly paid worker, in four complete weeks;

(*iii*) in the case of daily paid worker, in twelve full working days,

preceding the date on which the average pay becomes payable, if the worker had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a worker during the period he actually worked;

(*d*) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Industrial Tribunal referred to in section 44 or National Industrial Tribunal referred to in section 46 and includes an arbitration award made under section 42;

(*e*) "certifying officer" means any officer appointed by the appropriate Government, by notification, to perform the functions of a certifying officer under the provisions of Chapter IV;

(*f*) "closure" means the permanent closing down of a place of employment or part thereof;

(*g*) "conciliation officer" means a conciliation officer appointed under section 43;

(*h*) "conciliation proceeding" means any proceeding held by a conciliation officer under this Code;

(*i*) "employee" means any person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union; 52 of 1961.

(*j*) "employer" means a person who employs, whether directly or through any person, or on his behalf or on behalf of any person, one or more employees in his establishment and where the establishment is carried on by any department of the Central Government or the State Government, the authority specified by the head of the department in this behalf or where no authority is so specified by the head of the department, and in relation to an establishment carried on by a local authority, the chief executive of that authority, and includes,—

(*i*) in relation to an establishment which is a factory, the occupier of the factory as defined in clause (*n*) of section 2 of the Factories Act, 1948 and, 63 of 1948.

where a person has been named as a manager of the factory under clause (*f*) of sub-section (*1*) of section 7 of the said Act, the person so named;

(*ii*) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager or managing director, such manager or managing director;

(*iii*) contractor; and

(*iv*) legal representative of a deceased employer;

(*k*) "executive", in relation to a Trade Union, means the body by whatever name called, to which the management of the affairs of a Trade Union is entrusted;

(*l*) "fixed term employment" means the engagement of a worker on the basis of a written contract of employment for a fixed period:

Provided that—

(*a*) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent workman doing the same work or work of similar nature; and

(*b*) he shall be eligible for all statutory benefits available to a permanent workman proportionately according to the period of service rendered by him even if his period of employment does not extend to the qualifying period of employment required in the Statute;

(*m*) "industry" means any systematic activity carried on by co-operation between an employer and worker (whether such worker is employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,—

(*i*) any capital has been invested for the purpose of carrying on such activity; or

(*ii*) such activity is carried on with a motive to make any gain or profit,

but does not include—

(*i*) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or

(*ii*) any activity of the appropriate Government relatable to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or

(*iii*) any domestic service; or

(*iv*) any other activity as may be notified by the Central Government;

(*n*) "industrial dispute" means any dispute or difference between employers and employers or between employers and workers or between workers and workers which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person and includes any dispute or difference between an individual worker and an employer connected with, or arising out of discharge, dismissal, retrenchment or termination of such worker;

(*o*) "industrial establishment or undertaking" means an establishment or undertaking in which any industry is carried on:

Provided that where several activities are carried on in an establishment or undertaking and only one or some of such activities is or are an industry or industries, then,—

(*i*) if any unit of such establishment or undertaking carrying on any activity, being an industry, is severable from the other unit or units of such establishment or undertaking which is not carrying on or aiding the carrying on of any such activity, such unit shall be deemed to be a separate industrial establishment or undertaking;

(*ii*) if the predominant activity or each of the predominant activities carried on in such establishment or undertaking or any unit thereof is an industry and the other activity or each of the other activities carried on in such establishment or undertaking or unit thereof is not severable from and is, for the purpose of carrying on, or aiding the carrying on of, such predominant activity or activities, the entire establishment or undertaking or, as the case may be, unit thereof shall be deemed to be an industrial establishment or undertaking;

(*p*) "insurance company" means a company as defined in section 2 of the Insurance Act, 1938; 4 of 1938.

(*q*) "lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the break-down of machinery or natural calamity or for any other connected reason, to give employment to a worker whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched;

(*r*) "lock-out" means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him;

(*s*) "major port" means a major port as defined in clause (*8*) of section 3 of the Indian Ports Act, 1908; 15 of 1908.

(*t*) "mine" means a mine as defined in clause (*j*) of sub-section (*1*) of section 2 of the Mines Act, 1952; 35 of 1952.

(*u*) "National Industrial Tribunal" means a National Industrial Tribunal constituted under section 46;

(*v*) "negotiating union or negotiating council" means the negotiating union or negotiating council referred to in section 14;

(*w*) "notification" means a notification published in the Official Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variation and cognate expressions shall be construed accordingly;

(*x*) "office-bearer", in relation to a Trade Union, includes any member of the executive thereof, but does not include an auditor;

(*y*) "prescribed" means prescribed by rules made under this Code;

(*z*) "registered office" means that office of a Trade Union which is registered under this Code as the head office thereof;

(*za*) "registered Trade Union" means a Trade Union registered under this Code;

(*zb*) "Registrar" means a Registrar of Trade Unions appointed by the State Government under section 5;

(*zc*) "retrenchment" means the termination by the employer of the service of a worker for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include—

(*i*) voluntary retirement of the worker; or

(*ii*) retirement of the worker on reaching the age of superannuation if the contract of employment between the employer and the worker concerned contains a stipulation in that behalf; or

(*iii*) termination of the service of the worker as a result of the non-renewal of the contract of employment between the employer and the worker concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(*iv*) termination of service of the worker as a result of completion of tenure of fixed term employment;

(*zd*) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and to the conciliation officer;

(*ze*) "standing orders" means orders relating to matters set-out in the First Schedule;

(*zf*) "strike" means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal, under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment and includes the concerted casual leave on a given day by fifty per cent. or more workers employed in an industry;

(*zg*) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workers and employers or between workers and workers, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions:

Provided that the provisions of Chapter III of this Code shall not affect—

(*i*) any agreement between partners as to their own business; or

(*ii*) any agreement between an employer and those employed by him as to such employment; or

(*iii*) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft;

(*zh*) "Trade Union dispute" means any dispute relating to Trade Union arising between two or more Trade Unions or between the members of a Trade Union *inter se*;

(*zi*) "Tribunal" means an Industrial Tribunal constituted under section 44;

(*zj*) "unfair labour practice" means any of the practices specified in the Second Schedule;

(*zk*) "unorganised sector" shall have the same meaning as assigned to it in clause (*l*) of section 2 of the Unorganised Workers' Social Security Act, 2008;

33 of 2008.

(*zl*) "wages" means all remuneration, whether by way of salary, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

(*i*) basic pay;

(*ii*) dearness allowance;

(*iii*) retaining allowance, if any,

but does not include—

(*a*) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;

(*b*) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;

(*c*) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(*d*) any conveyance allowance or the value of any travelling concession;

(*e*) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

(*f*) house rent allowance;

(*g*) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;

(*h*) any overtime allowance;

(*i*) any commission payable to the employee;

(*j*) any gratuity payable on the termination of employment; or

(*k*) any retrenchment compensation or other retirement benefit payable to the employee or any *ex gratia* payment made to him on the termination of employment:

Provided that, for calculating the wage under this clause, if any payments made by the employer to the employee under sub-clauses (*a*) to (*i*) exceeds one-half, or such other per cent. as may be notified by the Central Government, of all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:

Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages the emoluments specified in sub-clauses (*d*), (*f*), (*g*) and (*h*) shall be taken for computation of wage.

Explanation.—Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee;

(*zm*) "worker" means any person (except an apprentice as defined under clause (*aa*) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists as defined in clause (*f*) of section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 and sales promotion employees as defined in clause (*d*) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976, and for the purposes of any proceeding under this Code in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person— 52 of 1961. 45 of 1955. 11 of 1976.

(*i*) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or 45 of 1950. 46 of 1950. 62 of 1957.

(*ii*) who is employed in the police service or as an officer or other employee of a prison; or

(*iii*) who is employed mainly in a managerial or administrative capacity; or

(*iv*) who is employed in a supervisory capacity drawing wage of exceeding fifteen thousand rupees per month or an amount as may be notified by the Central Government from time to time:

Provided that for the purposes of Chapter III, "worker"—

(*a*) means all persons employed in trade or industry; and

(*b*) includes the worker as defined in clause (*m*) of section 2 of the Unorganised Workers' Social Security Act, 2008. 33 of 2008.

CHAPTER II

BI-PARTITE FORUMS

Works Committee.

3. (*1*) In the case of any industrial establishment in which one hundred or more workers are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute a Works Committee, in such manner as may be prescribed, consisting of representatives of employer and workers engaged in the establishment:

Provided that the number of representatives of workers in such Committee shall not be less than the number of representatives of the employer.

(*2*) The representatives of the workers shall be chosen, in such manner as may be prescribed, from among the workers engaged in the establishment and in consultation with their Trade Union, if any, registered in accordance with the provisions of section 9.

(*3*) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workers and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

Grievance Redressal Committee.

4. (*1*) Every industrial establishment employing twenty or more workers shall have one or more Grievance Redressal Committees for the resolution of disputes arising out of grievances of an individual worker relating to non-employment, terms of employment or conditions of service.

(*2*) The Grievance Redressal Committee shall consist of equal number of members representing the employer and the workers to be chosen in such manner as may be prescribed.

(*3*) The chairperson of the Grievance Redressal Committee shall be selected from among persons representing the employer and the workers alternatively on rotational basis every year.

(*4*) The total number of members of the Grievance Redressal Committee shall not exceed ten:

Provided that there shall be, as far as practicable, one woman member, if the Grievance Redressal Committee has two members and in case the number of members is more than two, the number of women members may be increased keeping in view the number of women workers in the industrial establishment.

(*5*) An application in respect of any dispute referred to in sub-section (*1*) may be filed before the Grievance Redressal Committee by any aggrieved worker in such manner as may be prescribed within three years from the date on which the cause of action of such dispute arises.

(*6*) The Grievance Redressal Committee may complete its proceedings within thirty days of receipt of the application under sub-section (*5*).

(*7*) The decision of the Grievance Redressal Committee on any application filed under sub-section (*5*) shall be made on the basis of majority view of the Committee, provided more than half of the members representing the workers have agreed to such decision, otherwise it shall be deemed that no decision could be arrived at by the Committee.

(*8*) The worker who is aggrieved by the decision of the Grievance Redressal Committee or whose grievance is not resolved in the said Committee within the period specified in sub-section (*6*), may within a period of sixty days from the date of the decision of the Grievance Redressal Committee or as the case may be, from the date on which the period specified in sub-section (*6*) expires, file an application for the conciliation of such grievance to the conciliation officer in such manner as may be prescribed.

CHAPTER III

TRADE UNIONS

Registrar of Trade Unions.

5. (*1*) The State Government may, by notification, appoint a person to be the Registrar of Trade Unions, and other persons as Additional Registrar of Trade Unions, Joint Registrar of Trade Unions and Deputy Registrar of Trade Unions who shall exercise such powers and perform such duties of the Registrar as the State Government may, by notification, specify from time to time.

(*2*) Subject to the provisions of any order made by the State Government, where an Additional Registrar of Trade Unions or a Joint Registrar of Trade Unions or a Deputy Registrar of Trade Unions exercises the powers and performs the duties of the Registrar in an area within which the registered office of a Trade Union is situated, such Additional Registrar of Trade Unions or a Joint Registrar of Trade Unions or a Deputy Registrar of Trade Unions, as the case may be, shall be deemed to be the Registrar in relation to that Trade Union for the purposes of this Code.

Criteria for registration.

6. (*1*) Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Code with respect to registration, apply for registration of the Trade Union under this Code.

(*2*) No Trade Union of workers shall be registered unless at least ten per cent. of the workers or one hundred workers, whichever is less, engaged or employed in the establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration.

(*3*) Where an application has been made under sub-section (*1*) for registration of a Trade Union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application but before the registration of the Trade Union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the Trade Union or have given notice in writing to the Registrar dissociating themselves from the application.

(*4*) A registered Trade Union of workers shall at all times continue to have not less than ten per cent. of the workers or one hundred workers, whichever is less, subject to a minimum of seven, engaged or employed in an establishment or industry with which it is connected, as its members.

Provisions to be contained in constitution or rules of Trade Union.

7. A Trade Union shall not be entitled to registration under this Code, unless the executive thereof is constituted in accordance with the provisions of this Code, and the rules of the Trade Union provide for the following matters, namely:—

(*a*) the name of the Trade Union;

(*b*) the whole of the objects for which the Trade Union has been established;

(*c*) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Code;

(*d*) the maintenance of a list of members of the Trade Union and adequate facilities for the inspection thereof by the office-bearers and members of the Trade Union;

(*e*) the admission of ordinary members (irrespective of their craft or category) who shall be persons actually engaged or employed in the establishment, undertaking or industry, or units, branches or offices of an establishment, as the case may be, with which the Trade Union is connected, and also the admission of such number of honorary or temporary members, who are not such workers, as are not permitted under section 21 to be office-bearers to form the executive of the Trade Union;

(*f*) the payment of a subscription by members of the Trade Union and donation from such members and others, as may be prescribed;

(*g*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on any member;

(*h*) the annual general body meeting of the members of the Trade Union, the business to be transacted at such meeting, including the election of office-bearers of the Trade Union;

(*i*) the manner in which the members of the executive and the other office-bearers of the Trade Union shall be elected once in a period of every two years and removed, and filling of casual vacancies;

(*j*) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the office-bearers and members of the Trade Union;

(*k*) the manner in which the rules shall be amended, varied or rescinded; and

(*l*) the manner in which the Trade Union may be dissolved.

Application for registration, alteration of name and procedure thereof.

8. (*1*) Every application for registration of a Trade Union shall be made to the Registrar electronically or otherwise and be accompanied by—

(*a*) a declaration to be made by an affidavit in such form and manner as may be prescribed;

(*b*) copy of the rules of the Trade Union together with a copy of the resolution by the members of the Trade Union adopting such rules;

(*c*) a copy of the resolution adopted by the members of the Trade Union authorising the applicants to make an application for registration; and

(*d*) in the case of a Trade Union, being a federation or a central organisation of Trade Unions, a copy of the resolution adopted by the members of each of the member Trade Unions, meeting separately, agreeing to constitute a federation or a central organisation of Trade Unions.

Explanation.—For the purposes of this clause, resolution adopted by the members of the Trade Union means, in the case of a Trade Union, being a federation or a central organisation of Trade Unions, the resolution adopted by the members of each of the member Trade Unions, meeting separately.

(*2*) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars, as may be prescribed.

(*3*) The Registrar may call for further information for the purpose of satisfying himself that the application complies with the provisions of this Code and the Trade Union is entitled for registration under this Code, and may refuse to register the Trade Union until such information is furnished.

(*4*) If the name under which the Trade Union is proposed to be registered is identical with that of an existing registered Trade Union or in the opinion of the Registrar so nearly resembles the name of an existing Trade Union that such name is likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for altering the name of the Trade Union and shall refuse to register the Trade Union until such alteration has been made.

Registration of Trade Union and cancellation thereof.

9. (*1*) The Registrar shall, on being satisfied that the information furnished by the Trade Union which has made the application, in such form as may be prescribed, is complete in all respects, make an order, either granting or refusing to grant registration for that Trade Union and communicate the order to the applicant Trade Union electronically or otherwise:

Provided that where the Registrar refuses to grant the registration, he shall state the reasons thereof in writing for such refusal.

(*2*) Where the Registrar makes an order for registration of a Trade Union he shall issue a certificate of registration to the applicant Trade Union, in such form as may be prescribed, which shall be the conclusive evidence that the Trade Union has been registered under this Code.

(*3*) If the Registrar has issued a certificate of registration to a Trade Union he shall enter the name and other particulars of the Trade Union in a register maintained in this behalf in such form as may be prescribed.

(*4*) Every Trade Union registered under the Trade Unions Act, 1926 having valid registration immediately before the commencement of this Code shall be deemed to have been registered under this Code: 16 of 1926.

Provided that such Trade Union shall file with the Registrar a statement that the constitution of the executive of the Trade Union is in accordance with this Code along with the rules of the Trade Union updated in accordance with section 7, and the Registrar shall amend his records accordingly.

(*5*) The certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar,—

(*i*) on the application of the Trade Union verified in such manner as may be prescribed; or

(*ii*) on the information received by him regarding the contravention by the Trade Union of the provisions of this Code or the rules made thereunder or its constitution or rules:

Provided that not less than sixty days previous notice in writing specifying the grounds on which it is proposed to cancel the certificate of registration of a Trade Union shall be given by the Registrar to the Trade Union before the certificate of registration is cancelled otherwise than on the application of the Trade Union.

(*6*) A certificate of registration of a Trade Union shall be cancelled by the Registrar where a Tribunal has made an order for cancellation of registration of such Trade Union.

(*7*) While cancelling the certificate of registration of a Trade Union the Registrar shall record the reasons for doing so and communicate the same in writing to the Trade Union concerned.

Appeal against non-registration or cancellation of registration.

10. (*1*) Any person aggrieved by the refusal of the Registrar to grant registration to a Trade Union under section 9 or by cancellation of a certificate of registration under sub-section (*5*) of the said section, may within such period as may be prescribed, prefer an appeal to the Tribunal:

Provided that the Tribunal may entertain the appeal after the limitation prescribed for preferring the appeal under this sub-section, if the appellant satisfies the Tribunal that such delay has been caused due to sufficient reason or unavoidable circumstances.

(*2*) The Tribunal may, after giving the parties concerned an opportunity of being heard, dismiss the appeal or pass an order directing the Registrar to register the Trade Union and to issue a certificate of registration or set aside the order of cancellation of certificate of registration, as the case may be and forward a copy of such order to the Registrar.

Communication to Trade Union and change in its registration particulars.

11. (*1*) All communications and notices to a registered Trade Union shall be sent, in such manner as may be prescribed, to the address of the head office of the Trade Union as entered in the register maintained by the Registrar.

(*2*) The Trade Union shall inform the Registrar of any change in the particulars given by it in its application for registration and in its constitution or rules, in such manner as may be prescribed.

Incorporation of a registered Trade Union.

12. Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Certain Acts not to apply to registered Trade Unions.

13. The provisions of the following Acts, namely:—

21 of 1860. (*a*) the Societies Registration Act, 1860;

2 of 1912. (*b*) the Co-operative Societies Act, 1912;

39 of 2002. (*c*) the Multi-State Co-operative Societies Act, 2002;

18 of 2013. (*d*) the Companies Act, 2013; and

(*e*) any other corresponding law relating to co-operative societies for the time being in force in any State,

shall not apply to any registered Trade Union and the registration of any such Trade Union under any of the aforementioned Acts shall be void.

Recognition of negotiating union or negotiating council.

14. (*1*) There shall be negotiating union or negotiating council, as the case may be, in an industrial establishment for negotiating with the employer of the industrial establishment, on such matters as may be prescribed.

(*2*) Where only one Trade Union of workers registered under this Code is functioning in an industrial establishment, then, the employer of such industrial establishment shall recognise such Trade Union as sole negotiating union of the workers.

(*3*) If more than one Trade Union of workers registered under this Code are functioning in an industrial establishment, then, the Trade Union having seventy-five per cent. or more workers on the muster roll of that industrial establishment, verified in such manner as may be prescribed, supporting that Trade Union shall be recognised by the appropriate Government or any officer authorised by such Government in this behalf, as the sole negotiating union of the workers.

(*4*) If more than one Trade Union of workers registered under this Code are functioning in an industrial establishment, and no such Trade Union has seventy-five per cent. or more of workers on the muster roll of that industrial establishment, verified in such manner as may

be prescribed, supporting that Trade union, then, there shall be constituted by the appropriate Government or any officer authorised by such Government in this behalf, a negotiating council for negotiation on the matters referred to in sub-section (*1*), consisting of the representatives of such Trade Unions which have the support of not less than ten per cent. of the total workers on the muster roll of that industrial establishment so verified and such representation shall be of one representative for each ten per cent. of such total workers and in such calculation, the fraction of such ten per cent. shall not be taken into account.

(*5*) Where any negotiation on the matters referred to in sub-section (*1*) is held between an employer and a negotiating council constituted under sub-section (*4*), consequent upon such negotiation, any agreement is said to be reached, if it is agreed by the majority of the representatives of the Trade Unions in such negotiating council.

(*6*) Any recognition made under sub-section (*2*) or sub-section (*3*) or the negotiating council constituted under sub-section (*4*) shall be valid for three years from the date of recognition or constitution, as the case may be, and a Trade Union so recognised may again be recognised under the provisions of sub-section (*2*) or sub-section (*3*) or sub-section (*4*).

(*7*) The facilities to be provided by industrial establishment to a negotiating union or negotiating council shall be such as may be prescribed.

Objects of general fund, composition of separate fund and membership fee of Trade Union.

15. (*1*) The general funds of a registered Trade Union shall not be spent on any objects other than such as may be prescribed objects.

(*2*) A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of such objects as may be prescribed.

(*3*) No member shall be compelled to contribute to the fund constituted under sub-section (*2*) and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for admission to the Trade Union.

(*4*) The subscriptions payable by the members of the Trade Union shall be such as may be prescribed.

Immunity from civil suit in certain cases.

16. (*1*) No suit or other legal proceeding shall be maintainable in any civil court against any registered Trade Union or any office-bearer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment or that it is an interference with the trade, business, or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(*2*) A registered Trade Union shall not be liable in any suit or other legal proceeding in any civil court in respect of any tortuous act done in contemplation or furtherance of an industrial dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union.

Criminal conspiracy in furtherance of objects of Trade Union.

17. No office-bearer or member of a registered Trade Union shall be liable to punishment under sub-section (*2*) of section 120B of the Indian Penal Code in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless such agreement is an agreement to commit an offence. 45 of 1860.

Enforceability of agreements.

18. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any civil court to entertain any legal proceedings instituted for the purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employ or be employed.

Right to inspect books of Trade Union.

19. The books of account of a registered Trade Union and the list of members thereof shall be open to inspection by an office-bearer or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

Rights of minor to membership of Trade Union.

20. Any person who has attained the age of fourteen years may be a member of a registered Trade Union subject to any rules of the Trade Union, and may, subject to as aforesaid enjoy all the rights of a member and execute all instruments and given all acquaintances necessary to be executed or given under the rules.

Disqualification of office-bearers of Trade Unions.

21. (*1*) A person shall be disqualified for being chosen as, and for being, a member of the executive or any other office-bearer of a registered Trade Union, if—

(*i*) he has not attained the age of eighteen years;

(*ii*) he has been convicted by a court in India of any offence involving moral turpitude and sentenced to imprisonment unless a period of five years has elapsed since his release;

(*iii*) the Tribunal has directed that he shall be disqualified for being chosen or for being office-bearer of a Trade Union for a period specified therein.

(*2*) No member of the Council of Ministers or a person holding an office of profit (not being an engagement or employment in an establishment or industry with which the Trade Union is connected) in the Union or a State shall be a member of the executive or other office-bearer of a Trade Union.

Adjudication of disputes of Trade Unions.

22. (*1*) Where a dispute arises between—

(*a*) one Trade Union and another; or

(*b*) one or more workers who are members of the Trade Union and the Trade Union regarding registration, administration or management or election of office-bearers of the Trade Union; or

(*c*) one or more workers who are refused admission as members and the Trade Union; or

(*d*) where a dispute is in respect of a Trade Union which is a federation of Trade Unions and office-bearer authorised in this behalf by the Trade Union,

an application may be made in such manner as may be prescribed to the Tribunal having jurisdiction over the area where the registered office of the Trade Union or Trade Unions is located for adjudication of such disputes.

(*2*) No civil court other than the Tribunal shall have power to entertain any suit or other proceedings in relation to any dispute referred to in sub-section (*1*).

Proportion of office-bearers to be connected with industry.

23. (*1*) Not less than one-half of the total number of the office-bearers of every registered Trade Union in an unorganised sector shall be persons actually engaged or employed in an establishment or industry with which the Trade Union is connected:

Provided that the appropriate Government may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

Explanation.—For the purposes of this sub-section, "unorganised sector" means any sector which the appropriate Government may, by notification, specify.

(*2*) Save as otherwise provided in sub-section (*1*), all office-bearers of a registered Trade Union, except not more than one-third of the total number of the office-bearers or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected.

Explanation.—For the purposes of this sub-section, an employee who has retired or has been retrenched shall not be construed as outsider for the purpose of holding an office in a Trade Union.

Change of name, amalgamation, notice of change and its effect.

24. (*1*) Any registered Trade Union may, with the consent of not less than two-third of the total number of its members and subject to the provisions of sub-section (*3*), change its name.

(*2*) Any two or more registered Trade Unions may be amalgamated in such manner as may be prescribed.

(*3*) Notice in writing of every change of name and of every amalgamation signed in the case of a change of name, by the secretary and by seven members of the Trade Union changing its name, and in the case of an amalgamation, by the secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar and where the head office of the amalgamated Trade Union is situated in a different State, to the Registrar of such State in such manner as may be prescribed.

(*4*) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(*5*) Save as provided in sub-section (*4*), the Registrar shall, if he is satisfied that the provisions of this Code in respect of change of name have been complied with, register the change of name in the register referred to in sub-section (*3*) of section 9, and the change of name shall have effect from the date of such registration.

(*6*) The Registrar of the State in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Code in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 9, register the Trade Union and the amalgamation shall have effect from the date of such registration.

(*7*) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(*8*) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any such Trade Unions or any right of a creditor of any of them.

Dissolution.

25. (*1*) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

(*2*) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

Annual returns.

26. (*1*) Every registered Trade Union shall—

(*a*) forward annually to the Registrar, on or before such date, in such form, audited in such manner and by such person, as may be prescribed, a general statement containing particulars of all receipts and expenditure of such registered Trade Union during the year ending on the 31st day of December next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of December;

(*b*) along with the general statement referred to in clause (*a*), forward to the Registrar a statement showing changes of office-bearers made by the Trade Union during the year to which such general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of dispatch thereof to the Registrar.

(*2*) A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

(*3*) For the purpose of examining the documents referred to in clauses (*a*) and (*b*) of sub-section (*1*), and sub-section (*2*), the Registrar or any officer authorised by him, by general or special order, may at all reasonable times inspect the certificate of registration, account books, registers and other documents, relating to a Trade Union, at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than fifteen kilometres from the registered office of such Trade Union.

Recognition of Trade Unions at Central and State level.

27. (*1*) Where the Central Government is of the opinion that it is necessary or expedient that a Trade Union or federation of Trade Unions is to be recognised as Central Trade Union at the Central level, it may recognise such Trade Union or federation of Trade Unions as Central Trade Union in such manner and for such purpose, as may be prescribed, and if any dispute arises in relation to such recognition, it shall be decided by such authority in such manner as may be prescribed by the Central Government.

(*2*) Where the State Government is of the opinion that it is necessary or expedient that a Trade Union or federation of Trade Unions is to be recognised as State Trade Union at the State level, it may recognise such Trade Union or federation of Trade Unions as State Trade Union in such manner and for such purpose, as may be prescribed, and if any dispute arises in relation to such recognition, it shall be decided by such authority in such manner as may be prescribed by the State Government.

CHAPTER IV

STANDING ORDERS

Application of this Chapter.

28. (*1*) The provisions of this Chapter shall apply to every industrial establishment wherein one hundred, or more than one hundred as may be notified by the appropriate Government, are employed, or were employed on any day of the preceding twelve months:

Provided that the appropriate Government may, after giving not less than sixty days notice of its intention so to do, by notification, apply the provisions of this Chapter to any industrial establishment employing such number of persons less than one hundred as may be specified in the notification:

Provided further that where the provisions of this Chapter have become applicable to an establishment, they shall continue to apply to such establishment even if less than one hundred workers are employed at anytime thereafter.

(*2*) Notwithstanding anything contained in sub-section (*1*), the provisions of this Chapter shall not apply to an industrial establishment in so far as the workers employed therein are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Service (Classification, Control

and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government, apply.

Making of model standing orders by Central Government and temporary application.

29. (*1*) The Central Government shall make model standing orders relating to conditions of service and other matters incidental thereto or connected therewith.

(*2*) Notwithstanding anything contained in sections 30 to 36, for the period commencing on the date on which this section becomes applicable to an industrial establishment and ending with the date on which the standing orders as finally certified under this Code come into operation under section 33 in that establishment, the model standing order referred to in sub-section (*1*) shall be deemed to be adopted in that establishment and the provisions of sub-section (*2*) of section 33 and section 35 shall apply to such model standing orders as they apply to the standing orders so certified.

Preparation of draft standing orders by employer and procedure for certification.

30. (*1*) The employer shall prepare draft standing orders based on the model standing orders referred to in section 29 and on any other matter considered necessary by him for incorporation in such standing orders for his industrial establishment or undertaking considering the nature of activity in his industrial establishment or undertaking provided such provision is not inconsistent with any of the provision of this Code and covers every matters set out in the First Schedule.

(*2*) The employer shall consult the draft of the standing order, with the Trade Unions or recognised negotiating union or negotiating council and thereafter forward a copy of the same for being certified by the certifying officer.

(*3*) The employer shall complete the actions specified on his part under sub-sections (*1*) and (*2*) within six months from the date, the provisions of this Chapter becomes applicable to his industrial establishment.

(*4*) On receipt of the draft referred to in sub-section (*1*), the certifying officer shall issue notice,—

(*i*) where there is negotiating union of the industrial establishment or undertaking, to such negotiating union; or

(*ii*) where there is no negotiating union, to the members of the negotiating council referred to in sub-section (*4*) of section 14; or

(*iii*) where there is no Trade Union operating, to such representatives of the workers of the industrial establishment or undertaking chosen in such manner as may be prescribed,

for seeking their comments in the matter and after receipt of their comments give an opportunity of being heard to the negotiating union or negotiating council, or as the case may be, to the Trade Unions or the representatives of the workers and decide as to whether or not any modification or addition to such draft standing order is necessary to render the draft standing order certifiable, and shall make an order in writing in this regard.

(*5*) The standing orders shall be certifiable under this Code, if—

(*a*) provision is made therein for every matter set out in the First Schedule which is applicable to the industrial establishment; and

(*b*) such orders are otherwise in conformity with the provisions of this Code.

(*6*) It shall be the function of the certifying officer or the appellate authority referred to in section 32 to adjudicate upon the fairness or reasonableness of the provisions of any standing orders keeping in view the provisions of the model standing orders referred to in section 29.

(*7*) The certifying officer shall certify the draft standing orders under sub-section (*4*), after making modifications, if any, therein under that sub-section, and shall within seven

days thereafter send copies of the certified standing orders authenticated in such manner as may be prescribed to the employer and to the negotiating union or negotiating council or the Trade Union or other representatives of the workers referred to in clause (*iii*) of sub-section (*4*).

(*8*) The draft standing orders under sub-section (*1*) or draft of the proposed standing orders under sub-section (*4*) shall be accompanied by a statement giving such particulars, as may be prescribed, of the workers employed in the industrial establishment, the Trade Union to which they belong, and the negotiating union or negotiating council, if any.

(*9*) Subject to such conditions as may be prescribed, a group of employers in similar establishments may submit a joint draft of standing orders under this section and for the purposes of proceedings specified in sub-sections (*1*), (*4*), (*5*), (*7*) and (*8*), the expressions "employer", "Trade Union" and "negotiating union or negotiating council" shall respectively include all the employers, Trade Unions and negotiating unions or negotiating council of such similar establishments, as the case may be.

(*10*) Without prejudice to the foregoing provisions of this section, the standing orders relating to an industrial establishment or undertaking existing on the date of commencement of the relevant provisions of this Code, shall, in so far as is not inconsistent with the provisions of this Code or rules made thereunder, continue and be deemed to be the standing orders certified under sub-section (*7*) and accordingly the provisions of this Chapter shall apply thereon.

Certifying officers to have powers of civil court.

31. (*1*) Every certifying officer shall have all the powers of a civil court for the purposes of receiving evidence, administering oath, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a civil court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

2 of 1974.

(*2*) Clerical or arithmetical mistakes in any order passed by a certifying officer, or errors arising therein from any accidental slip or omission may, at any time, be corrected by that officer or successor in office of such officer.

Appeals.

32. An employer or Trade Union or the negotiating union or negotiating council, or where there is no negotiating union or negotiating council in an industrial establishment or undertaking any union, such representative body of the workers of the industrial establishment or undertaking, if not satisfied with the order of the certifying officer given under sub-section (*4*) of section 30, may file an appeal within sixty days of receipt of the order of the certifying officer to the appellate authority appointed by the appropriate Government, by notification, and such authority shall dispose of the appeal in such manner as may be prescribed.

Date of operation of standing orders and its availability.

33. (*1*) The standing orders or modified standing orders, as the case may be, shall, unless an appeal is preferred under section 32, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (*7*) of section 30, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent in such manner as may be prescribed.

(*2*) The text of a standing order as finally certified under this Code shall be maintained by the employer in such language and in such manner for the information of the concerned workers as may be prescribed.

Register of standing orders.

34. A copy of all standing orders as finally certified under this Code shall be filed by the certifying officer in a register, in electronic form or such other form as may be prescribed, maintained for the purpose, and the certifying officer shall furnish a copy thereof to any person applying therefor on payment of such fee as may be prescribed.

Duration and modification of standing orders.

35. (*1*) The standing orders certified under sub-section (*7*) of section 30 shall not, except on an agreement between the employer and the workers, or a negotiating union or a Trade Union or other representative body of the workers, be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

(*2*) Subject to the provisions of sub-section (*1*), an employer or worker or a Trade Union or other representative body of the workers may apply to the certifying officer to have the standing orders modified in such application as may be prescribed, which shall be accompanied by such copies of the modifications proposed to be made, and where the modifications are proposed to be made by agreement between the employer and the workers or a Trade Union or other representative body of the workers, a certified copy of that agreement shall be filed alongwith the application.

(*3*) The foregoing provisions of this Code shall apply in respect of an application under sub-section (*2*) as they apply to the certification of the first time standing orders.

Oral evidence in contradiction of standing orders not admissible.

36. No oral evidence having the effect of adding to or otherwise varying or contradicting standing order as finally certified under this Chapter shall be admitted in any Court.

Interpretation, etc., of standing orders.

37. If any question arises as to the application, or interpretation, of the standing orders certified under sub-section (*7*) of section 30 or the modification made therein by an agreement entered into under sub-section (*4*) of that section, the employer or any worker or workers concerned or the negotiating union in relation to the workers employed in the industrial establishment or undertaking, wherein the question has arisen, may apply to the Tribunal, within the local limits of whose territorial jurisdiction such establishment or the office, section or branch of the undertaking is situated, to decide the question and such Tribunal shall, after giving all the parties concerned a reasonable opportunity of being heard, decide the question and its decision shall be final and binding on the concerned employer and the workers.

Time limit for completing disciplinary proceedings and liability to pay subsistence allowance.

38. (*1*) Where any worker is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, such investigation or inquiry, or where there is an investigation followed by an inquiry, both the investigation and inquiry shall be completed ordinarily within a period of ninety days from the date of suspension.

(*2*) The standing orders certified under sub-section (*7*) of section 30 or modified under section 35 shall provide that where a worker is suspended as referred to in sub-section (*1*), the employer in relation to an industrial establishment or undertaking shall pay to such worker employed in such establishment or undertaking subsistence allowance at the rates specified in sub-section (*3*) for the period during which such worker is placed under suspension pending investigation or inquiry into complaints or charges of misconduct against such worker.

(*3*) The amount of subsistence allowance payable under sub-section (*2*) shall be—

(*a*) at the rate of fifty per cent. of the wages which the worker was entitled to immediately preceding the date of such suspension, for the first ninety days of suspension; and

(*b*) at the rate of seventy-five per cent. of such wages for the remaining period of suspension, if the delay in the completion of disciplinary proceedings against such worker is not directly attributable to the conduct of such worker.

Power to exempt.

39. The appropriate Government may, by notification, exempt, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of this Chapter.

CHAPTER V

NOTICE OF CHANGE

Notice of change.

40. No employer, who proposes to effect any change in the conditions of service applicable to any worker in respect of any matter specified in the Third Schedule, shall effect such change,—

(*i*) without giving to the workers likely to be affected by such change a notice in such manner as may be prescribed of the nature of the change proposed to be effected; or

(*ii*) within twenty-one days of giving such notice:

Provided that no notice shall be required for effecting any such change,—

(*a*) where the change is effected in pursuance of any settlement or award;

(*b*) where the workers likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Services Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply;

(*c*) in case of emergent situation which requires change of shift or shift working, otherwise than in accordance with standing orders, in consultation with Grievance Redressal Committee.

Power of appropriate Government to exempt.

41. Where the appropriate Government is of the opinion that the application of the provisions of section 40 to any class of industrial establishments or to any class of worker employed in any industrial establishment affect the employers in relation thereto so prejudicially that such application may cause serious repercussion on the industry concerned and that public interest so requires, the appropriate Government may, by notification, direct that the provisions of the said section shall not apply or shall apply, subject to such conditions as may be specified in the notification, to that class of industrial establishments or to that class of workers employed in any industrial establishment.

CHAPTER VI

VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION

Voluntary reference of disputes to arbitration.

42. (*1*) Where any industrial dispute exists or is apprehended and the employer and the workers agree to refer the dispute to arbitration, they may, by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons as an arbitrator or arbitrators as may be specified in the arbitration agreement.

(*2*) Where an arbitration agreement provides for a reference of the dispute to an even number of arbitrators the agreement shall provide for the appointment of another person as umpire who shall enter upon the reference, if the arbitrators are equally divided in their opinion, and the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purposes of this Code.

(*3*) An arbitration agreement referred to in sub-section (*1*) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.

(*4*) A copy of the arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer, and the conciliation officer shall, register it in such manner as may be prescribed.

(*5*) Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the persons making the reference represent the majority of each party, the appropriate Government may issue a notification in such manner as may be prescribed; and when any such notification is issued, the employers and workers who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators:

Provided that—

(*i*) where such industrial dispute is the industrial dispute other than the termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the workers shall be represented before the arbitrator through,—

(*a*) where there is negotiating union or negotiating council, by the negotiating union or negotiating council, as the case may be; or

(*b*) where there is no negotiating union or negotiating council, by the Trade Union; or

(*c*) where there is no Trade Union, by such representatives of the workers chosen in such manner as may be prescribed;

(*ii*) where such industrial dispute relates to termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the concerned workers shall be represented in person or through a representative authorised by him.

(*6*) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be.

(*7*) Where an industrial dispute has been referred to arbitration and a notification has been issued under sub-section (*5*), the appropriate Government may, by order, prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

(*8*) Nothing in the Arbitration and Conciliation Act, 1996, shall apply to arbitrations under this section. 26 of 1996.

CHAPTER VII

MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

Conciliation officers.

43. (*1*) The appropriate Government may, by notification, appoint such number of persons, as it thinks fit to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(*2*) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

Industrial Tribunal.

44. (*1*) The appropriate Government may, by notification, constitute one or more Industrial Tribunals for the adjudication of industrial disputes and for performing such other functions as may be assigned to them under this Code and the Tribunal so constituted by the Central Government shall also exercise the jurisdiction, powers and authority conferred on the Tribunal, as defined in clause (*m*) of section 2 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 by or under that Act. 19 of 1952.

(*2*) Every Industrial Tribunal shall consist of two members to be appointed by the appropriate Government out of whom one shall be a Judicial Member and the other, an Administrative Member.

(*3*) A bench of the Tribunal shall consist of a Judicial Member and an Administrative Member or single Judicial Member or single Administrative Member.

(*4*) A person shall not be qualified for appointment as the Judicial Member of a Tribunal, unless he—

(*a*) is, or has been or is qualified to be, a judge of a High Court; or

(*b*) has, for a period of not less than three years, been a District Judge or an Additional District Judge.

(*5*) A person shall not be qualified for appointment as Administrative Member of a Tribunal unless, he is a person of ability, integrity and standing, and having special knowledge of, and professional experience of not less than twenty years in economics, business, commerce, law, finance, management, industry, public affairs, administration, labour relations, industrial disputes or any other matter which in the opinion of the Central Government is useful to the Tribunal.

(*6*) The term of office of the Judicial Member and the Administrative Member of a Tribunal constituted by the Central Government under sub-section (*1*), their salaries and allowances, resignation, removal and other terms and conditions of service shall be such as may be provided in the rules made under sub-section (*1*) of section 184 of the Finance Act, 2017.

7 of 2017.

(*7*) The term of office of the Judicial Member and the Administrative Member of a Tribunal constituted by the State Government under sub-section (*1*), their salaries and allowances, resignation, removal and other terms and conditions of service shall be such as may be prescribed by the State Government.

(*8*) Neither the salaries and allowances nor the terms and conditions of service of the Judicial Member or Administrative Member referred to in sub-section (*2*) may be varied to his disadvantage after his appointment.

(*9*) The procedure of the Tribunal (including distribution of cases in the benches of the Tribunal) shall be such as may be prescribed, provided a bench consisting of a Judicial Member and an Administrative Member shall entertain and decide the cases only relating to—

(*a*) the application and interpretation of standing order;

(*b*) discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen dismissed;

(*c*) illegality or otherwise of a strike or lock-out; and

(*d*) retrenchment of workmen and closure of establishment,

and every award or order shall be signed by both the Members; and the remaining cases shall be entertained and decided by the bench of the Tribunal consisting either a Judicial Member or an Administrative Member of the Tribunal and the award delivered by such single Member of the Tribunal shall be signed by him alone.

(*10*) The Judicial Member shall preside over the Tribunal where the bench of the Tribunal consists of one Judicial Member and one Administrative Member.

(*11*) If, for any reason, a vacancy (other than a temporary absence) occurs in a National Industrial Tribunal or a Tribunal, then, such vacancy shall be filled up in such manner as may be prescribed in consonance with the appointment of the Judicial Member or, as the case may be, the Administrative Member of such National Industrial Tribunal or Tribunal, and the proceeding may be continued before such National Industrial Tribunal or Tribunal, as the case may be, from the stage at which the vacancy is filled.

(*12*) The appropriate Government may provide such number of officers and other staff as it thinks fit in consultation with the Judicial Member of the Tribunal which may be required for the due discharge of the functioning of the Tribunal.

Finality of constitution of Tribunal.

45. No notification of the appropriate Government appointing any person as a Judicial Member or an Administrative Member of a Tribunal shall be called in question in any manner; and no act or proceeding before the Tribunal shall be called in question in any manner on the ground mainly of the existence of any vacancy in, or defect in the constitution of such Tribunal.

National Industrial Tribunal.

46. (*1*) The Central Government may, by notification, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

(*2*) A National Industrial Tribunal shall consist of two members to be appointed by the Central Government out of whom one shall be a Judicial Member and the other, an Administrative Member.

(*3*) A person shall not be qualified for appointment as the Judicial Member of a National Industrial Tribunal unless he is, or has been, a Judge of a High Court.

(*4*) A person shall not be qualified for appointment as Administrative Member of a National Industrial Tribunal unless, he is or has been Secretary to the Government of India or holding an equivalent rank in the Central Government or State Government, having adequate experience of handling the labour related matters.

(*5*) The Judicial Member shall preside over a National Industrial Tribunal.

(*6*) The procedure of selection of Judicial Member and Administrative Member of the National Industrial Tribunal, their salaries, allowances and other terms and conditions of service shall be such as may be prescribed.

(*7*) The Central Government may provide such number of officers and other staff as it thinks fit in consultation with the Judicial Member of the National Industrial Tribunal which may be required for the due discharge of the functioning of the National Industrial Tribunal.

Decision of Tribunal or National Industrial Tribunal.

47. (*1*) The decision of a Tribunal or a National Industrial Tribunal, as the case may be, shall be by consensus of the members.

(*2*) If the members of a Tribunal or a National Industrial Tribunal differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the appropriate Government.

(*3*) The appropriate Government shall, on receipt of a reference made under sub-section (*2*), appoint a Judicial Member of other Tribunal or a National Industrial Tribunal, who shall hear the point or points himself and such point or points shall be decided according to the majority of the members of a Tribunal or a National Industrial Tribunal, as the case may be, who have first heard the case, including the Judicial Member of the other Tribunal who heard the case thereafter.

Disqualifications for members of Tribunal and National Industrial Tribunal.

48. No person shall be appointed to, or continue in, the office of the member of a Tribunal or National Industrial Tribunal, respectively, if—

(*a*) he is not an independent person; or

(*b*) he has attained the age of sixty-five years.

Explanation.—For the purposes of this section "independent person" means a person who is unconnected with the industrial dispute referred to a Tribunal or National Industrial Tribunal or with any industry directly affected by such dispute.

Procedure and powers of arbitrator, conciliation officer, Tribunal and National Industrial Tribunal.

49. (*1*) Subject to any provisions of this Code and rules that may be made in this behalf, an arbitrator, conciliation officer, Tribunal or National Industrial Tribunal shall follow such procedure as the arbitrator, conciliation officer, Tribunal or National Industrial Tribunal may deem fit.

(*2*) A conciliation officer or an officer authorised in this behalf by the Tribunal or National Industrial Tribunal may, for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(*3*) The conciliation officer, Tribunal and National Industrial Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure,1908, when trying a suit, in respect of the following matters, namely:— 5 of 1908.

(*a*) enforcing the attendance of any person and examining him on oath;

(*b*) compelling the production of documents and material objects;

(*c*) issuing commissions for the examination of witnesses;

(*d*) in respect of such other matters as may be prescribed, and every inquiry or investigation by Tribunal or National Industrial Tribunal, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

45 of 1860.

(*4*) A conciliation officer may enforce the attendance of any person for the purpose of examination of such person or call for and inspect any document which he has ground for considering to be relevant to the industrial dispute or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Code, and for the aforesaid purposes, the conciliation officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of enforcing the attendance of any person and examining him or of compelling the production of documents.

5 of 1908.

(*5*) The appropriate Government may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as an assessor or assessors to advise a Tribunal or National Industrial Tribunal, as the case may be, in respect of any proceeding before either of the said Tribunals.

(*6*) All conciliation officers and the members of a Tribunal or National Industrial Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

(*7*) Subject to any rules made under this Code, the costs of, and incidental to, any proceeding before a Tribunal or National Industrial Tribunal shall be in the discretion of that Tribunal or National Industrial Tribunal and the Tribunal or National Industrial Tribunal, as the case may be, shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may, on application made to the appropriate Government by the person entitled, be recovered by that Government in the same manner as an arrear of land revenue.

(*8*) Every Tribunal or National Industrial Tribunal shall be deemed to be civil court for the purposes of sections 345, 346, and 348 of the Code of Criminal Procedure, 1973.

2 of 1974.

(*9*) Every award made, order issued or settlement arrived at by or before a Tribunal or a National Industrial Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a civil court under Order XXI of the Code of Civil Procedure, 1908 and for that purpose such Tribunal or National Industrial Tribunal shall be deemed to be a civil court.

1 of 1908.

Powers of Tribunal and National Industrial Tribunal to give appropriate relief in case of discharge or dismissal of worker.

50. (*1*) Where the application under sub-section (*6*) of section 53 relating to an industrial dispute involving discharge or dismissal or otherwise termination of a worker has been made to a Tribunal or has been referred to a National Industrial Tribunal for adjudication, and, in the course of adjudication proceedings, the Tribunal or National Industrial Tribunal, as the case may be, is satisfied that the order of discharge or dismissal or otherwise termination was not justified, it may, by its award, set aside the order of discharge or dismissal or termination and direct reinstatement of the worker on such terms and conditions, if any, as it thinks fit, or give such other relief to the worker including the award of any lesser punishment in lieu of discharge or dismissal or otherwise termination, as the circumstances of the case may require.

(*2*) A Tribunal or National Industrial Tribunal, as the case may be, may, in the interest of justice, grant such interim relief to the worker referred to in sub-section (*1*) during the pendency of the industrial dispute as the circumstances of the case may require:

Provided that in any proceeding under this sub-section the Tribunal or National Industrial Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.

Transfer of pending cases.

51. (*1*) On and from the date of commencement of this Code, the cases pending immediately before such commencement—

(*a*) in the Labour Court and the Tribunal constituted under the Industrial Disputes Act, 1947, shall be transferred to the Tribunal having corresponding jurisdiction under this Code; 14 of 1947.

(*b*) in the National Tribunal constituted under the Industrial Disputes Act, 1947 shall be transferred to the National Industrial Tribunal having corresponding jurisdiction under this Code. 14 of 1947.

(*2*) The cases transferred under sub-section (*1*) to the Tribunal or the National Industrial Tribunal shall be dealt with *de novo* or from the stage at which they were pending before such transfer, as it may deem fit.

Adjustment of services of presiding officers under repealed Act.

52. A presiding officer of a Labour Court or Tribunal or, as the case may be, National Tribunal, constituted under the Industrial Disputes Act, 1947, holding office as such immediately before the commencement of this Code and is qualified to be appointed under this Code, shall be the Judicial Member of the Tribunal or, as the case may be, the Judicial Member of the National Industrial Tribunal, and shall continue as such for the remaining period of his office. 14 of 1947.

Conciliation and adjudication of dispute.

53. (*1*) Where any industrial dispute exists or is apprehended or a notice under section 62 has been given, the conciliation officer shall, hold conciliation proceedings in such manner as may be prescribed:

Provided that the conciliation officer shall not hold any such proceedings relating to the industrial dispute after three years from the date on which such industrial dispute arose.

(*2*) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(*3*) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the conciliation officer shall send a report thereof to the appropriate Government or an officer authorised in this behalf by the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(*4*) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable, after the close of the investigation, send to the concerned parties and to the appropriate Government a full report, in the electronic or other form as may be prescribed, setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(*5*) Notwithstanding anything contained in sub-section (*4*), the conciliation officer shall send the report to the concerned parties and the appropriate Government within forty-five days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government:

Provided that where a conciliation officer receives notice under section 62 he shall send the report to the concerned parties and to the appropriate Government within fourteen days of the commencement of the conciliation proceedings:

Provided further that subject to the approval of the conciliation officer, the time may be extended by such period as may be agreed upon in writing by the concerned parties to the dispute.

(*6*) Any concerned party may make application in the prescribed form to the Tribunal in the matters not settled by the conciliation officer under this section within ninety days from the date on which the report under sub-section (*4*) is received to the concerned party and the Tribunal shall decide such application in the prescribed manner.

Reference to and functions of National Industrial Tribunal.

54. (*1*) The Central Government may refer an industrial dispute to a National Industrial Tribunal which in the opinion of such Government involves question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by such industrial dispute.

(*2*) Where an industrial dispute has been referred under sub-section (*1*) or transferred under section 92 by the Central Government to a National Industrial Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, within the period specified in the order referring or transferring such industrial dispute or further period extended by the Central Government, submit its award to such Government.

Form of award, its communication and commencement.

55. (*1*) The award of a Tribunal or a National Industrial Tribunal shall be in writing and shall be signed electronically or otherwise by both the Judicial Member and the Administrative Member.

(*2*) Every arbitration award and every award of Tribunal or National Industrial Tribunal shall be communicated to the parties concerned and the appropriate Government.

(*3*) An award made under this Code shall become enforceable on the expiry of thirty days from the date of its communication under sub-section (*2*):

Provided that—

(*a*) if the appropriate Government is of the opinion in any case, where the award has been given by a Tribunal in appeal in relation to an industrial dispute to which it is a party; or

(*b*) if the Central Government is of opinion in any case, where the award has been given by a National Industrial Tribunal,

that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be, the Central Government may, by notification, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

(*4*) Where any declaration has been made in relation to an award under the proviso to sub-section (*3*), the appropriate Government or the Central Government, as the case may be, may, within ninety days from the date of communication of the award under sub-section (*2*), make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before the Legislature of the State, if the order has been made by a State Government, or before Parliament, if the order has been made by the Central Government.

(*5*) Where any award as rejected or modified by an order made under sub-section (*4*) is laid before the Legislature of a State or before Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (*4*) is made in pursuance of a declaration under the proviso to sub-section (*3*), the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (*4*).

(*6*) Subject to the provisions of sub-section (*3*) and sub-section (*5*) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-section (*3*) or sub-section (*5*), as the case may be.

Payment of full wages to worker pending proceedings in higher Courts.

56. Where in any case, a Tribunal or a National Industrial Tribunal by its award directs reinstatement of any worker and the employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such worker, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the worker had not been employed in any establishment during such period and an affidavit by such worker had been filed to that effect in such Court:

Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such worker had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be.

Persons on whom settlements and awards are binding.

57. (*1*) A settlement arrived at by agreement between the employer and worker otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

(*2*) Subject to the provisions of sub-section (*3*), an arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.

(*3*) A settlement arrived at in the course of conciliation proceedings under this Code or an arbitration or an award of a Tribunal or National Industrial Tribunal which has become enforceable shall be binding on—

(*a*) all parties to the industrial dispute;

(*b*) all other parties summoned to appear in the proceedings as parties to the dispute, unless the arbitrator, Tribunal or National Industrial Tribunal, as the case may be, records the opinion that they were so summoned without proper cause;

(*c*) where a party referred to in clause (*a*) or clause (*b*) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(*d*) where a party referred to in clause (*a*) or clause (*b*) is composed of workers, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

Period of operation of settlements and awards.

58. (*1*) A settlement shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

(*2*) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months from the date on which the memorandum of settlement is signed by the parties to the dispute, and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of sixty days from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

(*3*) An award shall, subject to the provisions of this section, remain in operation for a period of one year from the date on which the award becomes enforceable under section 55:

Provided that the appropriate Government may reduce the said period and fix such period as it thinks fit:

Provided further that the appropriate Government may before expiry of the said period, extend the period of operation by any period not exceeding one year at a time as it thinks fit so, however, that the total period of operation of any award does not exceed three years from the date on which it came into operation.

(*4*) Where the appropriate Government, whether of its own motion or on the application of any party bound by the award, considers that since the award was made, there has been

a material change in the circumstances on which it was based, the appropriate Government may refer the award or part of it to the Tribunal, if the award is made by the Tribunal for decision whether the period of operation should not, by reason of such change, be shortened and the decision of the Tribunal on such reference shall be final.

(*5*) Nothing contained in sub-section (*3*) shall apply to any award which by its nature, terms or other circumstances does not impose, after it has been given effect to, any continuing obligation on the parties bound by the award.

(*6*) Notwithstanding the expiry of the period of operation under sub-section (*3*), the award shall continue to be binding on the parties until a period of sixty days has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

(*7*) No notice given under sub-section (*2*) or sub-section (*6*) shall have effect, unless it is given by a party representing the majority of persons bound by the settlement or award, as the case may be.

Recovery of money due from employer.

59. (*1*) Where any money is due to a worker from an employer under a settlement or an award or under the provisions of Chapter IX or Chapter X, the worker himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the worker, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

Provided that every such application shall be made within one year from the date on which the money became due to the worker from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(*2*) Where any worker is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Code, be decided by such Tribunal as may be specified in this behalf by the appropriate Government within a period not exceeding three months:

Provided that where the Tribunal considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit.

(*3*) For the purposes of computing the money value of a benefit referred to in sub-section (*2*), the Tribunal may, if it so thinks fit, appoint a Commissioner who shall, after taking such evidence as may be necessary, submit a report to the Tribunal and the Tribunal shall determine the amount after considering the report of the Commissioner and other circumstances of the case.

(*4*) The decision of the Tribunal shall be forwarded by it to the appropriate Government and any amount found due by the Tribunal may be recovered in the manner provided for in sub-section (*1*).

(*5*) Where workers employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workers.

Commencement and conclusion of proceedings.

60. (*1*) A conciliation proceeding shall be deemed to have commenced on the date on which the first meeting is held by the conciliation officer after the receipt of the notice of strike or lock-out by the conciliation officer.

(*2*) A conciliation proceeding shall be deemed to have concluded—

(*a*) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;

(*b*) where no settlement is arrived at, and failure of conciliation is recorded by the conciliation officer; or

(*c*) when a reference is made to a National Industrial Tribunal, under this Code, during the pendency of conciliation proceedings.

(*3*) Proceedings before an arbitrator or a Tribunal or a National Industrial Tribunal under this Code shall be deemed to have commenced on the date of filing application or appeal or on the date of reference of the dispute for arbitration or adjudication, as the case may be, and such proceedings shall be deemed to have concluded on the date on which the award becomes enforceable.

Certain matters to be kept confidential.

61. There shall not be included in any report or award under this Code, any information obtained by a conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, in the course of any investigation or inquiry as to a Trade Union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such conciliation officer, arbitrator, Tribunal, or National Industrial Tribunal, if the Trade Union, person, firm or company, in question has made a request in writing to the conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, as the case may be, that such information shall be treated as confidential; nor shall such conciliation officer, or the arbitrator, or the presiding officer of a Tribunal or a National Industrial Tribunal or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the Trade Union or the person, firm or company in question, as the case may be:

Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code. 45 of 1860.

CHAPTER VIII

STRIKES AND LOCK-OUTS

Prohibition of strikes and lock-outs.

62. (*1*) No person employed in an industrial establishment shall go on strike, in breach of contract—

(*a*) without giving to the employer notice of strike, as hereinafter provided, within sixty days before striking; or

(*b*) within fourteen days of giving such notice; or

(*c*) before the expiry of the date of strike specified in any such notice; or

(*d*) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings; or

(*e*) during the pendency of proceedings before a Tribunal or a National Industrial Tribunal and sixty days, after the conclusion of such proceedings; or

(*f*) during the pendency of arbitration proceedings before an arbitrator and sixty days after the conclusion of such proceedings, where a notification has been issued under sub-section (*5*) of section 42; or

(*g*) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

(*2*) No employer of an industrial establishment shall lock-out any of his workers—

(*a*) without giving them notice of lock-out as hereinafter provided, within sixty days before locking-out; or

(*b*) within fourteen days of giving such notice; or

(*c*) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(*d*) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings; or

(*e*) during the pendency of proceedings before a Tribunal or a National Industrial Tribunal and sixty days, after the conclusion of such proceedings; or

(*f*) during the pendency of arbitration proceedings before an arbitrator and sixty days after the conclusion of such proceedings, where a notification has been issued under sub-section (*5*) of section 42; or

(*g*) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

(*3*) The notice of strike or lock-out under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of services.

(*4*) The notice of strike referred to in sub-section (*1*) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(*5*) The notice of lock-out referred to in sub-section (*2*) shall be given in such manner as may be prescribed.

(*6*) If on any day an employer receives from any person employed by him any such notices as are referred to in sub-section (*1*) or gives to any person employed by him any such notices as are referred to in sub-section (*2*), he shall within two days thereof report to the appropriate Government or to such authority as that Government may prescribe and to the conciliation officer, the number of such notices received or given on that day.

Illegal strikes and lock-outs.

63. (*1*) A strike or lock-out shall be illegal, if it is—

(*i*) commenced or declared in contravention of section 62; or

(*ii*) continued in contravention of an order made under sub-section (*7*) of section 42.

(*2*) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the filing of the application relating to such industrial dispute in the Tribunal or of the reference of such industrial dispute to an arbitrator or a National Industrial Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Code or the continuance thereof was not prohibited under sub-section (*7*) of section 42.

(*3*) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

Prohibition of financial aid to illegal strikes or lock-outs.

64. No person shall knowingly spend or apply any money in direct furtherance or support of any illegal strike or lock-out.

CHAPTER IX

LAY-OFF, RETRENCHMENT AND CLOSURE

Application of sections 67 to 69.

65. (*1*) Sections 67 to 69 (both inclusive) shall not apply to industrial establishments to which Chapter X applies; or

(*a*) to industrial establishments in which less than fifty workers on an average per working day have been employed in the preceding calendar month; or

(*b*) to industrial establishments which are of a seasonal character or in which work is performed intermittently.

(*2*) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

Explanation.—In this section and in sections 67, 68 and 69, industrial establishment shall mean a—

(*i*) factory as defined in clause (*m*) of section 2 of the Factories Act, 1948; or 63 of 1948.

(*ii*) mine as defined in clause (*j*) of sub-section (*1*) of section 2 of the Mines Act, 1952; or 35 of 1952.

(*iii*) plantation as defined in clause (*f*) of section 2 of the Plantations Labour Act, 1951. 69 of 1951.

Definition of continuous service.

66. In this Chapter, continuous service in relation to a worker, means the uninterrupted service of such worker, including his service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal or a lock-out or a cessation of work which is not due to any fault on the part of the worker.

Explanation 1.—For the purpose of this section, where a worker is not in continuous service for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

(*a*) for a period of one year, if the worker during a period of twelve months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than—

(*i*) one hundred and ninety days in the case of a worker employed below ground in a mine; and

(*ii*) two hundred and forty days, in any other case;

(*b*) for a period of six months, if the worker during a period of six months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than—

(*i*) ninety-five days in the case of worker employed below ground in a mine; and

(*ii*) one hundred and twenty days, in any other case.

Explanation 2.—For the purpose of *Explanation* 1, the number of days on which a worker has actually worked under an employer shall include the days on which—

(*i*) he has been laid-off under an agreement or as permitted by or under this Code or any other law applicable to the establishment for the time being in force; or

(*ii*) he has been on leave on full wages earned in the previous years; or

(*iii*) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; or

(*iv*) in the case of a female, she has been on maternity leave, so however, that the total period of such maternity leave does not exceed the period as specified in the Maternity Benefit Act, 1961.

53 of 1961.

Rights of workers laid-off for compensation, etc.

67. Whenever a worker (other than a *badli* worker or a casual worker) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him, had he not been so laid-off:

Provided that if during any period of twelve months, a worker is so laid-off for more than forty-five days, no such compensation shall be payable in respect of any period of the lay-off after the expiry of the first forty-five days, if there is an agreement to that effect between the worker and the employer:

Provided further that it shall be lawful for the employer in any case falling within the foregoing proviso to retrench the worker in accordance with the provisions contained in section 70 at any time after the expiry of the first forty-five days of the lay-off and when he does so, any compensation paid to the worker for having been laid-off during the preceding twelve months may be set-off against the compensation payable for retrenchment.

Explanation.—For the purposes of this section "*badli* worker" means a worker who is employed in an industrial establishment in the place of another worker whose name is borne on the muster rolls of the establishment, but shall cease to be regarded as such, if he has completed one year of continuous service in the establishment.

Duty of an employer to maintain muster rolls of workers.

68. Notwithstanding that workers in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purposes of this Chapter a muster roll, and to provide for the making of entries therein by workers who may present themselves for work at the establishment at the appointed time during normal working hours.

Workers not entitled for compensation in certain cases.

69. No compensation shall be paid to a worker who has been laid-off—

(*i*) if he refuses to accept any alternative employment in the same establishment from which he has been laid-off, or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of eight kilometres from the establishment to which he belongs, if, in the opinion of the employer, such alternative employment does not call for any special skill or previous experience and can be done by the worker, provided that the wages which would normally have been paid to the worker are offered for the alternative employment also;

(*ii*) if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day;

(*iii*) if such laying-off is due to a strike or slowing-down of production on the part of workers in another part of the establishment.

Conditions precedent to retrenchment of workers.

70. No worker employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(*a*) the worker has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the worker has been paid in lieu of such notice, wages for the period of the notice;

(*b*) the worker has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof in excess of six months; and

(*c*) notice in such manner as may be prescribed is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification.

Procedure for retrenchment.

71. Where any worker in an industrial establishment who is a citizen of India, is to be retrenched and he belongs to a particular category of workers in that establishment, then, in the absence of any agreement between the employer and the worker in this behalf, the employer shall ordinarily retrench the worker who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other worker.

Re-employment of retrenched worker.

72. Where any worker is retrenched and the employer proposes to take into his employment any person within one year of such retrenchment, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workers who are citizens of India to offer themselves for re-employment and such retrenched workers who offer themselves for re-employment shall have preference over other persons.

Compensation to workers in case of transfer of establishment.

73. Where the ownership or management of an establishment is transferred, whether by agreement or by operation of law, from the employer in relation to that establishment to a new employer, every worker who has been in continuous service for not less than one year in that establishment immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of section 70 as if the worker had been retrenched:

Provided that nothing in this section shall apply to a worker in any case where there has been a change of employers by reason of the transfer, if—

(*a*) the service of the worker has not been interrupted by such transfer;

(*b*) the terms and conditions of service applicable to the worker after such transfer are not in any way less favourable to the worker than those applicable to them immediately before the transfer; and

(*c*) the new employer is, under the terms of such transfer or otherwise, legally liable to pay to the worker, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.

Sixty days' notice to be given of intention to close down any undertaking.

74. (*1*) An employer who intends to close down an undertaking shall serve, at least sixty days before the date on which the intended closure is to become effective, a notice, in such manner as may be prescribed, on the appropriate Government stating clearly the reasons for the intended closure of the undertaking:

Provided that nothing in this section shall apply to—

(*i*) an industrial establishment in which less than fifty workers are employed or were employed on any day in the preceding twelve months;

(*ii*) an industrial establishment set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project.

(*2*) Notwithstanding anything contained in sub-section (*1*), the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or an extraordinary situation such as natural calamities or the like, it is necessary so to do, by order, direct that the provisions of sub-section (*1*) shall not apply in relation to such undertaking for such period as may be specified in the order.

Compensation to workers in case of closing down of undertakings.

75. (*1*) Where an establishment is closed down for any reason whatsoever, every worker who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (*2*), be entitled to notice and compensation in accordance with the provisions of section 69, as if the worker had been retrenched:

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the worker under clause (*b*) of section 70, shall not exceed his average pay for three months.

Explanation.—An industrial establishment which is closed down by reason merely of—

(*i*) financial difficulties (including financial losses); or

(*ii*) accumulation of un-disposed stocks; or

(*iii*) the expiry of the period of the lease or license granted to it; or

(*iv*) in case where the undertaking is engaged in mining operations, exhaustion of the minerals in the area in which operations are carried on,

shall not be deemed to be closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso to this sub-section.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an undertaking engaged in mining operations is closed down by reason merely of exhaustion of the minerals in the area in which such operations are carried on, no worker referred to in that sub-section shall be entitled to any notice or compensation in accordance with the provisions of section 70, if—

(*a*) the employer provides the worker, at the place located within a radius of twenty kilometres from such undertaking engaged in mining operation is closed down, with alternative employment with effect from the date of closure at the same remuneration as he was entitled to receive, and on the same terms and conditions of service as were applicable to him, immediately before the closure;

(*b*) the service of the worker has not been interrupted by such alternative employment; and

(*c*) the employer is, under the terms of such alternative employment or otherwise, legally liable to pay to the worker, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by such alternative employment.

(*3*) For the purposes of sub-sections (*1*) and (*2*), the expressions "minerals" and "mining operations" shall have the meanings respectively assigned to them in clauses (*a*) and (*d*) of section 3 of the Mines and Minerals (Regulation and Development) Act, 1957. 67 of 1957.

(*4*) Where any undertaking set up for the construction of buildings, bridges, roads, canals, dams, or other construction work is closed down on account of the completion of the work within two years from the date on which the undertaking had been set up, no worker employed therein shall be entitled to any compensation under clause (*b*) of section 70, but if the construction work is not so completed within two years, he shall be entitled to notice and compensation under that section for every completed year of continuous service or any part thereof in excess of six months.

Effect of laws inconsistent with this Chapter.

76. (*1*) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under Chapter IV:

Provided that where under the provisions of any other Act or rules, orders or notifications issued thereunder or under any standing orders or any award, contract or service or otherwise, a worker is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Code, the worker shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Chapter.

(*2*) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workers in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter.

CHAPTER X

SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS

Application of this Chapter.

77. (*1*) The provisions of this Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than one hundred workers, or such number of workers as may be notified by the appropriate Government, were employed on an, average per working day in the preceding twelve months:

Provided that where a threshold of more than one hundred workers is in force in a State under the law for the time being in force in such State immediately before the commencement of this Code, then, such threshold shall prevail for the purposes of this sub-section till it is amended by the competent Legislature.

(*2*) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

(*3*) For the purposes of this Chapter,—

(*a*) "industrial establishment" means—

(*i*) a factory as defined in clause (*m*) of section 2 of the Factories Act, 1948; 63 of 1948.

(*ii*) a mine as defined in clause (*j*) of sub-section (*1*) of section 2 of the Mines Act, 1952; or 35 of 1952.

(*iii*) a plantation as defined in clause (*f*) of section 2 of the Plantations Labour Act, 1951; 69 of 1951.

(*b*) notwithstanding anything contained in sub-clause (*ii*) of clause (*b*) of section 2,—

(*i*) in relation to any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government; or

(*ii*) in relation to any corporation (not being a corporation referred to in sub-clause (*i*) of clause (*b*) of section 2) established by or under any law made by Parliament,

the Central Government shall be the appropriate Government.

Prohibition of lay-off.

78. (*1*) No worker (other than a *badli* worker or a casual worker) whose name is borne on the muster rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except with the prior permission of the appropriate Government or such authority as may be specified by that Government by notification (hereafter in this section referred to as the specified authority), obtained on an application made in this behalf, unless such lay-off is due to shortage of power, natural calamity, and in the case of a mine, such lay-off is due to fire, flood, excess of inflammable gas or explosion.

(*2*) An application for permission under sub-section (*1*) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workers concerned in such manner as may be prescribed.

(*3*) Where the workers (other than *badli* workers or casual workers) of industrial establishment, being a mine, have been laid-off under sub-section (*1*) for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, within a period of thirty days from the date of commencement of such lay-off, apply, in such manner as may be prescribed, to the appropriate Government or the specified authority for permission to continue the lay-off.

(*4*) Where an application for permission under sub-section (*1*) or sub-section (*3*) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workers concerned and the persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workers and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers.

(*5*) Where an application for permission under sub-section (*1*) or sub-section (*3*) has been made and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted as applied for on the expiration of the said period of sixty days and the application shall be deemed to have been disposed of accordingly by the appropriate Government or the specified authority, as the case may be.

(*6*) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (*7*), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(*7*) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (*4*) within the prescribed time from the date on which such order is made or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(*8*) Where no application for permission under sub-section (*1*) is made, or where no application for permission under sub-section (*3*) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workers had been laid-off and the workers shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

(*9*) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (*1*), or, as the case may be, sub-section (*3*) shall not apply in relation to such establishment for such period as may be specified in the order.

(*10*) The provisions of section 67 (other than the second proviso thereto) shall apply to cases of lay-off referred to in this section.

Explanation.—For the purposes of this section, a worker shall not be deemed to be laid-off by an employer if such employer offers any alternative employment (which in the opinion of the employer does not call for any special skill or previous experience and can be done by the worker) in the same establishment from which he has been laid-off or in any other establishment belonging to the same employer, situate in the same town or village, or situate within such distance from the establishment to which he belongs that the transfer will not involve undue hardship to the worker having regard to the facts and circumstances of his case, subject to the condition that the wages which would normally have been paid to the worker are offered for the alternative appointment also.

Conditions precedent to retrenchment of workers to which Chapter X applies.

79. (*1*) No worker employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—

(*a*) the worker has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the worker has been paid in lieu of such notice, wages for the period of the notice; and

(*b*) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(*2*) An application for permission under sub-section (*1*) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workers concerned in such manner as may be prescribed.

(*3*) Where an application for permission under sub-section (*1*) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workers concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workers and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers.

(*4*) Where an application for permission has been made under sub-section (*1*) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days and the application shall be deemed to have been disposed of accordingly by the appropriate Government or the specified authority, as the case may be.

(*5*) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (*6*), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(*6*) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (*3*) within the prescribed time from the date on which such order is made or refer the matter or, as the case may be, cause it to be referred to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(*7*) Where no application for permission under sub-section (*1*) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the worker and the worker shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(*8*) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (*1*) shall not apply in relation to such establishment for such period as may be specified in the order.

(*9*) Where permission for retrenchment has been granted under sub-section (*3*) or where permission for retrenchment is deemed to be granted under sub-section (*4*), every worker who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof, in excess of six months.

Procedure for closing down an undertaking.

80. (*1*) An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall, in the prescribed manner, apply, for prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government, stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workers in such manner as may be prescribed:

Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.

(*2*) Where an application for permission has been made under sub-section (*1*), the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workers and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers.

(*3*) Where an application has been made under sub-section (*1*) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted as applied for on the expiration of the said period of sixty days and the application shall be deemed to have been disposed of accordingly by the appropriate Government or the specified authority, as the case may be.

(*4*) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (*5*), be final and binding on all the parties and shall remain in force for one year from the date of such order.

(*5*) The appropriate Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (*2*) within the prescribed time from the date on which such order is made or refer the matter to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(*6*) Where no application for permission under sub-section (*1*) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workers shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(*7*) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (*1*) shall not apply in relation to such undertaking for such period as may be specified in the order.

(*8*) Where an undertaking is permitted to be closed down under sub-section (*2*) or where permission for closure is deemed to be granted under sub-section (*3*), every worker who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive compensation which shall be equivalent to fifteen days average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof in excess of six months.

Duty of an employer to maintain muster rolls of workers.

81. Notwithstanding that workers in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purposes of this Chapter a muster roll, and to provide for the making of entries therein by workers who may present themselves for work at the establishment at the appointed time during normal working hours.

Certain provisions of Chapter IX to apply to industrial establishment to which this Chapter applies.

82. The provisions of sections 66, 71, 72, 73 and 76 in Chapter IX shall, so far as may be, apply also in relation to an industrial establishment to which the provisions of this Chapter apply.

CHAPTER XI

WORKER RE-SKILLING FUND

Worker re-skilling fund.

83. (*1*) The appropriate Government shall, by notification, set up a fund to be called the worker re-skilling fund (hereafter in this section referred to as "fund").

(*2*) The fund shall consist of—

(*a*) the contribution of the employer of an industrial establishment an amount equal to fifteen days wages last drawn, or such other number of days as may be notified by the Central Government, of every retrenched worker immediately before the retrenchment or closure;

(*b*) the contribution from such other sources as may be prescribed by the appropriate Government.

(*3*) The fund shall be utilised by crediting fifteen days wages last drawn by the worker, who is retrenched, within forty-five days of such retrenchment, in such manner as may be prescribed.

CHAPTER XII

UNFAIR LABOUR PRACTICES

Prohibition of unfair labour practice.

84. No employer or worker or a Trade Union, whether registered under this Code, or not, shall commit any unfair labour practice specified in the Second Schedule.

CHAPTER XIII

OFFENCES AND PENALTIES

Power of officers of appropriate Government to impose penalty in certain cases.

85. (*1*) Notwithstanding anything contained in section 84, for the purpose of imposing penalty under sub-sections (*3*), (*5*), (*7*), (*8*), (*9*), (*10*) and (*11*) of section 86 and sub-section (*7*) of section 89, the appropriate Government may appoint any officer not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the State Government, as the case may be, for holding enquiry in such manner, as may be prescribed by the Central Government.

(*2*) While holding the enquiry, the officer referred to in sub-section (*1*) shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of such officer, may be useful for or relevant to the subject matter of the enquiry and if, on such enquiry, he is satisfied that the person has committed any offence under the provisions referred to in sub-section (*1*), he may impose such penalty as he thinks fit in accordance with such provisions.

Penalties.

86. (*1*) An employer who contravenes the provisions of section 78 or section 79 or section 80 shall be punishable with fine which shall not be less than one lakh rupees, but which may extend to ten lakh rupees.

(*2*) An employer who after conviction for an offence under section 78 or section 79 or section 80 again commits the same offence under section 78 or section 79 or section 80, then, he shall for the second or subsequent offence be punishable with fine which shall not be less than five lakh rupees, but which may extend up to twenty lakh rupees or with imprisonment for a term which may extend to six months, or with both.

(*3*) An employer who contravenes the provisions of section 67 or section 70 or section 73 or section 75 shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

(*4*) An employer who after conviction for an offence under section 67 or section 70 or section 73 or section 75 again commits the same offence under section 67 or section 70 or section 73 or section 75, then, he shall for the second or subsequent offence be punishable with fine which shall not be less than one lakh rupees, but which may extend to five lakh rupees or with imprisonment for a term which may extend to six months, or with both.

(*5*) Any person who commits any unfair labour practice as specified in the Second Schedule shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to two lakh rupees.

(*6*) Any person who after conviction for any unfair labour practice again commits the same offence, then, he shall, for committing the second or subsequent offence, be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to five lakh rupees or with imprisonment for a term which may extend to three months, or with both.

(*7*) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any provisions of this Code, every office-bearer or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such office-bearer or person, every member of the executive of the Trade Union, shall be punishable with fine which shall not be less than one thousand rupees, but which may extend to ten thousand rupees and any continuing default shall be punishable with an additional penalty of fifty rupees per day so long as the default continues.

(*8*) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 26 or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which shall not be less than two thousand rupees, but which may extend to twenty thousand rupees.

(*9*) Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which shall not be less than five thousand rupees, but which may extend to twenty thousand rupees.

(*10*) An employer who fails to submit draft standing orders as required by section 30, or who modifies his standing orders otherwise than in accordance with section 35, shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees and in the case of a continuing offence with an additional fine of two thousand rupees per day till the offence continues.

(*11*) An employer who does any act in contravention of the standing orders finally certified under this Code shall be punishable with fine which shall not be less than one lakh rupees, but which may extend to two lakh rupees.

(*12*) Any person who after conviction under sub-section (*11*) again commits the same offence, then, he shall, for committing the second or subsequent offence be punishable with fine which shall not be less than two lakh rupees, but which may extend to four lakh rupees or with imprisonment for a term which may extend to three months or with both.

(*13*) Any worker who commences, continues or otherwise acts in furtherance of a strike which is illegal under this Code, shall be punishable with fine which shall not be less than one thousand rupees, but which may extend up to ten thousand rupees or with imprisonment for a term which may extend to one month, or with both.

(*14*) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Code, shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to one lakh rupees or with imprisonment for a term which may extend to one month, or with both.

(*15*) Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Code, shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to fifty thousand rupees or with imprisonment for a term which may extend to one month, or with both.

(*16*) Any person who knowingly spends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to fifty thousand rupees or with imprisonment for a term which may extend to one month, or with both.

(*17*) Any person who commits a breach of any term of any settlement or award, which is binding on him under this Code, shall be punishable with fine which shall not be less than twenty thousand rupees, but which may extend to two lakh rupees or with imprisonment for a term which may extend to three months, or with both.

(*18*) Where the breach under sub-section (*17*) is a continuing one, the offender shall be punishable with an additional fine which may extend to one thousand rupees for every day during which the breach continues after the first conviction and the court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been affected by such breach.

(*19*) Any person who wilfully discloses any such information as is referred to in section 61 in contravention of the provisions of that section shall, on a complaint made by or on behalf of the Trade Union or individual business affected, be punishable with fine which may extend to twenty thousand rupees, or with imprisonment for a term which may extend to one month, or with both.

(*20*) Any person who contravenes any other provision of this Code not covered under sub-sections (*1*) to (*19*) or the rules or regulations framed under this Code shall be punishable with fine which may extend to one lakh rupees.

Cognizance of offences.

87. (*1*) No court shall take cognizance of any offence punishable under this Code, save on a complaint made by or under the authority of the appropriate Government.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court inferior to that of the Metropolitan Magistrate or Judicial Magistrate of the first class shall try the offences under this Code. 2 of 1974.

Offences by companies.

88. (*1*) If the person committing an offence under this Code is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Code has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes —

(*i*) a firm; or

(*ii*) a limited liability partnership registered under the Limited Liability Partnership Act, 2008; or

6 of 2009.

(*iii*) other association of individuals; and

(*b*) "director" in relation to a firm means a partner in the firm.

2 of 1974.

Composition of offences.

89. (*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Code, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by a Gazetted officer, as the appropriate Government may, by notification, specify, for a sum of fifty per cent. of the maximum fine provided for such offence, in the manner as may be prescribed.

(*2*) Nothing contained in sub-section (*1*) shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date—

(*a*) of commission of a similar offence which was earlier compounded;

(*b*) of commission of similar offence for which such person was earlier convicted.

(*3*) Every officer referred to in sub-section (*1*) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the appropriate Government.

(*4*) Every application for the compounding of an offence shall be made in such manner as may be prescribed.

(*5*) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(*6*) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in sub-section (*1*) in writing, to the notice of the adjudicating officer appointed under sub-section (*1*) of section 85 before whom the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

(*7*) Any person who fails to comply with an order made by the officer referred to in sub-section (*1*), shall be liable to pay a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.

(*8*) No offence punishable under the provisions of this Code shall be compounded except under and in accordance with the provisions of this section.

CHAPTER XIV

MISCELLANEOUS

Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.

90. (*1*) Where an industrial dispute pertaining to an establishment or undertaking is already pending before a conciliation officer or an arbitrator or a Tribunal or a National Industrial Tribunal, as the case may be, with regard to matters not covered by the notice of change issued by an employer under section 40, no employer shall—

(*a*) in regard to any matter connected with such dispute, alter to the prejudice of the workers concerned in such dispute the conditions of service applicable to them immediately before the commencement of such proceedings; or

(*b*) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise any worker concerned in such dispute,

save with the express permission in writing of the authority before which the proceeding is pending.

(*2*) During the pendency of any such proceeding in respect of an industrial dispute referred in sub-section (*1*), the employer may, in accordance with standing orders applicable to a worker concerned in such dispute or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the worker—

(*a*) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that worker immediately before the commencement of such proceeding; or

(*b*) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that worker:

Provided that no such worker shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(*3*) Notwithstanding anything contained in sub-section (*2*), no employer shall, during the pendency of any proceeding in respect of an industrial dispute, take any action against any protected worker concerned in such dispute—

(*a*) by altering, to the prejudice of such protected worker, the conditions of service applicable to him immediately before the commencement of such proceeding; or

(*b*) by discharging or punishing, whether by dismissal or otherwise, such protected worker,

save with the express permission in writing of the authority before which the proceeding is pending.

Explanation.—For the purposes of this sub-section, a "protected worker" in relation to an establishment, means a worker who, being a member of the executive or other office-bearer of a registered Trade Union connected with the establishment, is recognised as such in accordance with rules made in this behalf.

(*4*) In every establishment, the number of workers to be recognised as protected workers for the purposes of sub-section (*3*) shall be one per cent. of the total number of workers employed therein subject to a minimum number of five protected workers and a maximum number of one hundred protected workers and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workers among various Trade Unions, if any, connected with the establishment and the manner in which the workers may be chosen and recognised as protected workers.

(*5*) Where an employer makes an application to conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, as the case may be, under the proviso to sub-section (*2*) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, within a period of three months from the date of receipt of such application, such order in relation thereto as it deems fit:

Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further periods as it may think fit:

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.

Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings.

91. Where an employer contravenes the provisions of section 90 during the pendency of proceedings before conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, as the case may be, any employee aggrieved by such contravention, may make a complaint in writing in such manner as may be prescribed—

(*a*) to such conciliation officer, and the conciliation officer shall take such complaint into account in mediating in, and promoting the settlement of, such industrial dispute; and

(*b*) to such arbitrator, Tribunal or National Industrial Tribunal and on receipt of such complaint, the arbitrator, Tribunal or National Industrial Tribunal, as the case may be, shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Code and shall submit his or its award to the appropriate Government and the provisions of this Code shall apply accordingly.

Power to transfer certain proceedings.

92. (*1*) The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Code pending before a Tribunal and transfer the same to another Tribunal, as the case may be, for the disposal of the proceeding and the Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either *de novo* or from the stage at which it was so transferred.

(*2*) The Central Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding pending under this Code before a Tribunal constituted by the Central Government or the State Government and transfer to a National Industrial Tribunal for disposal of the proceeding and the National Industrial Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either *de novo* or from the stage at which it was so transferred.

(*3*) The Central Government may, by notification, and for reasons to be stated therein, empower a Tribunal constituted by the State Government to entertain and dispose of the cases arising within their respective jurisdiction under the provisions of this Code where the appropriate Government is the Central Government.

Protection of persons.

93. (*1*) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Code shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any Trade Union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in rules of a Trade Union or society notwithstanding.

(*2*) Nothing in the rules of a Trade Union or society requiring the settlement of dispute in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the civil court may, in lieu of ordering a person who has been expelled from membership of a Trade Union or society to be restored to membership, order that he be paid out of the funds of the Trade Union or society such sum by way of compensation or damages as that court thinks just.

Representation of parties.

94. (*1*) A worker who is a party to a dispute shall be entitled to be represented in any proceeding under this Code by—

(*a*) any member of the executive or other office-bearer of a registered Trade Union of which he is a member;

(*b*) any member of the executive or other office-bearer of a federation of Trade Unions to which the Trade Union referred to in clause (*a*) is affiliated;

(*c*) where the worker is not a member of any Trade Union, any member of the executive or other office-bearer of any Trade Union connected with, or by any other

worker employed in the industry in which the worker is employed and authorised in such manner as may be prescribed.

(*2*) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Code by—

(*a*) an officer of an association of employer of which he is a member;

(*b*) an officer of a federation of associations of employers to which the association referred to in clause (*a*) is affiliated;

(*c*) where the employer is not a member of any association of employers, an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(*3*) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Code or any proceedings before Tribunal or National Industrial Tribunal.

(*4*) Notwithstanding anything contained in sub-section (*3*), in any proceeding before a Tribunal or a National Industrial Tribunal, a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Tribunal or National Industrial Tribunal, as the case may be.

Removal of doubts in interpretation of award or settlement.

95. (*1*) If, in the opinion of the appropriate Government, any difficulty or doubt arises as to the interpretation of any provision of an award or settlement, it may refer the question to such Tribunal or National Industrial Tribunal as it may think fit.

(*2*) A Tribunal or National Industrial Tribunal to which such question is referred shall, after giving the parties an opportunity of being heard, decide such question and its decision shall be final and binding on all such parties.

Power to exempt.

96. Where the appropriate Government is satisfied in relation to any industrial establishment or undertaking or any class of industrial establishments or undertakings carried on by a department of that Government that adequate provisions exist to fulfil the objects of any provision of this Code, it may, by notification, exempt, conditionally or unconditionally such establishment or undertaking or, class of establishments or undertakings from that provision of this Code.

Jurisdiction of civil courts barred.

97. No civil court shall have jurisdiction in respect of any matter to which any provision of this Code applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Code.

Protection of action taken under Code.

98. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Code or any rules made thereunder.

Power to make rules.

99. (*1*) The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Code.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(*a*) written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding to arrive at a settlement under clause (*zd*) of section 2;

(*b*) constitution of Works Committee and choosing of representatives of employer and workers engaged in the establishment under section 3;

(*c*) manner of choosing members from the employer and the workers for Grievance Redressal Committee under sub-section (*2*) of section 4;

(*d*) application in respect of any dispute to be filed before the Grievance Redressal Committee by any aggrieved worker under sub-section (*5*) of section 4;

(*e*) manner of filing application for the conciliation of grievance as against the decision of the Grievance Redressal Committee to the conciliation officer under sub-section (*8*) of section 4;

(*f*) the payment of a subscription by members of the Trade Union and donation from such members and others under clause (*f*) of section 7;

(*g*) manner of annual audit under clause (*j*) of section 7;

(*h*) form of declaration to be made by an affidavit and the manner of making the same under clause (*a*) of sub-section (*1*) of section 8;

(*i*) general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars under sub-section (*2*) of section 8;

(*j*) the form of application for registration under sub-section (*1*), and the form of issuing certificate of registration to be issued by the Registrar to the applicant Trade Union under sub-section (*2*) of section 9;

(*k*) the form of entering the name and other particulars of Trade Union in a register maintained by the Registrar in this behalf under sub-section (*3*) of section 9;

(*l*) verification of application of the Trade Union under sub-section (*5*) of section 9;

(*m*) period within which appeal is to be preferred by Trade Union to Tribunal under sub-section (*1*) of section 10;

(*n*) sending of communication and notices under sub-section (*1*) and the manner to inform the Registrar under sub-section (*2*) of section 11;

(*o*) matters on which negotiating union or negotiating council, as the case may be, in an industrial establishment may negotiate with the employer of the industrial establishment under sub-section (*1*) of section 14;

(*p*) manner of verification of workers on the muster roll of the industrial establishment, under sub-sections (*3*) and (*4*), and the facilities to be provided by industrial establishment to a negotiating union or negotiating council under sub-section (*7*) of section 14;

(*q*) the objects under sub-section (*1*) and sub-section (*2*) and the subscription payable under sub-section (*4*) of section 15;

(*r*) manner of making application for adjudication before the Tribunal under sub-section (*1*) of section 22;

(*s*) the manner of amalgamation under sub-section (*2*), and the manner of sending signed amalgamation to the Registrar of different State under sub-section (*3*) of section 24;

(*t*) distribution of funds of the Trade Union on dissolution by Registrar under sub-section (*2*) of section 25;

(*u*) the date before which a general statement shall be forwarded annually to the Registrar, the particulars to be contained in general statement and its form, the person by whom and the manner in which such general statement shall be audited under clause (*a*) of sub-section (*1*) of section 26;

(*v*) manner of recognition of a Trade Union or a federation of Trade Unions by the State Government as a State Trade Union at the State level and the authority and the manner of deciding dispute by it under sub-section (*2*) of section 27;

(*w*) manner of choosing representatives of the workers of the industrial establishment or undertaking for issuing notice by certifying officer, where there is no Trade Union operating, under sub-section (*4*) of section 30;

(*x*) manner of authentication of certified standing orders under sub-section (*7*) of section 30;

(*y*) statement to be accompanied with draft standing orders under sub-section (*8*) of section 30;

(*z*) conditions for submission of draft standing orders by group of employers in similar establishment under sub-section (*9*) of section 30;

(*za*) manner of disposal of appeal by the appellate authority under section 32;

(*zb*) the manner of sending copies of the order of the appellate authority under sub-section (*1*) and the language and the manner of maintaining standing order under sub-section (*2*) of section 33;

(*zc*) form of register for filing finally certified standing orders by the certifying officer and fee for furnishing certified copy of such orders under section 34;

(*zd*) application for modification of standing orders to be made before certifying officer under sub-section (*2*) of section 35;

(*ze*) the manner of giving of notice of the nature of the change proposed to be effected under clause (*i*) of section 40;

(*zf*) form of arbitration agreement and the manner to be signed by the parties thereto under sub-section (*3*) of section 42;

(*zg*) manner of registration of arbitration agreement by conciliation officer under sub-section (*4*) of section 42;

(*zh*) manner of issuance of notification where an industrial dispute has been referred to arbitration under sub-section (*5*) of section 42;

(*zi*) manner of choosing representatives of the workers where there is no Trade Union under the proviso to sub-section (*5*) of section 42;

(*zj*) manner of filling up the vacancy under sub-section (*11*) of section 44;

(*zk*) the procedure for selection, salaries and allowances and other terms and conditions of Judicial and Administrative Members of the National Industrial Tribunal under sub-section (*6*) of section 46;

(*zl*) such other matters in respect of which a conciliation officer, Tribunal and National Industrial Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure,1908 under sub-section (*3*) of section 49; 5 of 1908.

(*zm*) manner of holding conciliation proceedings under sub-section (*1*), form of full report under sub-section (*4*), and the form of application and the manner of deciding such application under sub-section (*6*) of section 53;

(*zn*) the number of persons by whom the notice of strike shall be given, the person or persons to whom such notice shall be given, and the manner of giving such notice, under sub-section (*4*) of section 62;

(*zo*) manner of giving notice of lock-out under sub-section (*5*) and the authority under sub-section (*6*) of section 62;

(*zp*) manner of serving notice before retrenchment of a worker employed in the industry who has been in continuous service for not less than one year by an employer on the appropriate Government or such authority as may be specified by the appropriate Government by notification under clause (*c*) of section 70;

(*zq*) manner in which the employer shall give an opportunity to the retrenched workers who are citizens of India to offer themselves for re-employment under section 72;

(*zr*) manner in which the employer shall serve notice on the appropriate Government stating clearly the reasons for the intended closure of the undertaking under sub-section (*1*) of section 74;

(*zs*) manner of making application by the employer stating clearly the reasons for the intended lay-off and the manner of serving copy of such application to workers under sub-section (*2*) of section 78;

(*zt*) manner of applying to the appropriate Government or the specified authority for permission to continue the lay-off by the employer under sub-section (*3*) of section 78;

(*zu*) time limit for review under sub-section (*7*) of section 78;

(*zv*) manner of making application by the employer stating clearly the reasons for the intended retrenchment and the manner of serving copy of such application to workers under sub-section (*2*) of section 79;

(*zw*) time limit for review under sub-section (*6*) of section 79;

(*zx*) manner of making application by the employer stating clearly the reasons for the intended closing down of an undertaking of an industrial establishment and the manner of serving copy of such application to the representatives of workers under sub-section (*1*) of section 80;

(*zy*) time limit for review under sub-section (*5*) of section 80;

(*zz*) contribution from such other sources to be made to the worker re-skilling fund under clause (*b*) of sub-section (*2*) of section 83;

(*zza*) manner of utilisation of fund under sub-section (*3*) of section 83;

(*zzb*) manner of composition of offence by a Gazetted officer specified under sub-section (*1*) of section 89;

(*zzc*) manner of making application for the compounding of an offence specified under sub-section (*4*) of section 89;

(*zzd*) manner of making complaint by an aggrieved employee under section 91;

(*zze*) manner of authorisation of worker for representing in any proceeding under sub-section (*1*) of section 94;

(*zzf*) manner of authorisation of employer for representing in any proceeding under sub-section (*2*) of section 94;

(*zzg*) any other matter which is required to be, or may be, prescribed under the provisions of this Code.

(*3*) The Central Government shall make rules for the—

(*a*) manner of recognition of a Trade Union or federation of Trade Unions by the Central Government as a Central Trade Union at the Central level and the authority and the manner of deciding dispute by it under sub-section (*1*) of section 27; and

(*b*) manner of holding an enquiry under sub-section (*1*) of section 85.

(*4*) All rules made under this section by the State Government shall, as soon as possible after they are made, be laid before the State Legislature.

(*5*) Every rule made under this section and notification issued under clause (*m*) of section 2, by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or notification, or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Delegation of powers.

100. The appropriate Government may, by notification, direct that any power exercisable by it under this Code or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also,—

(*a*) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government, or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(*b*) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.

Power to amend Schedules.

101. (*1*) The Central Government may, by notification, add to or alter or amend the First Schedule or the Second Schedule or the Third Schedule and on any such notification being issued, the First Schedule or the Second Schedule or the Third Schedule, as the case may be, shall be deemed to be amended accordingly.

(*2*) Every notification issued by the Central Government under sub-section (*1*) shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the modification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done in pursuance of that notification.

Amendment of Act 7 of 2017.

102. In the Finance Act, 2017, in the Eighth Schedule, against serial number 1,—

(*a*) in column (2), for the words "Industrial Tribunal constituted by the Central Government", the words, brackets and figures "Industrial Tribunal constituted by the Central Government under sub-section (*1*) of section 44 of the Industrial Relations Code, 2019" shall be substituted;

(*b*) in column (3), for the words and figures "The Industrial Disputes Act, 1947", the words and figures "The Industrial Relations Code, 2019" shall be substituted. 14 of 1947.

Power to remove difficulties.

103. (*1*) If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Code as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of three years from the commencement of this Code.

(*2*) Every order made under this section shall be laid before each House of Parliament.

Repeal and savings.

104. (*1*) In the notification issued under sub-section (*3*) of section 1 for the commencement of any provision of this Code, the Central Government may specify that the provisions of —

16 of 1926. (*a*) the Trade Unions Act, 1926;

20 of 1946. (*b*) the Industrial Employment (Standing Orders) Act, 1946; and

14 of 1947. (*c*) the Industrial Disputes Act, 1947,

shall stand repealed with effect from the date appointed in the notification in this behalf and the remaining provisions of the enactments referred to in clauses (*a*) to (*c*) shall remain in force till they are repealed by like notifications in the like manner.

(*2*) Notwithstanding such repeal under sub-section (*1*), anything done or any action taken under the provisions of the enactments so repealed including any rule, regulation, notification, nomination, appointment, order or direction made thereunder shall be deemed to have been done or taken under the corresponding provisions of this Code and shall be in force to the extent they are not contrary to the provisions of this Code.

(*3*) Without prejudice to the provisions of sub-section (*2*), the provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactments.

10 of 1897.

THE FIRST SCHEDULE

[*See* sections 2(*ze*) and 30(*1*) and (*5*)]

MATTERS TO BE PROVIDED IN STANDING ORDERS UNDER THIS CODE

1. Classification of workers, whether permanent, temporary, apprentices, probationers, *badlis* or fixed term employment.

2. Manner of intimating to workers periods and hours of work, holidays, pay-days and wage rates.

3. Shift working.

4. Attendance and late coming.

5. Conditions of, procedure in applying for, and the authority which may grant leave and holidays.

6. Requirement to enter premises by certain gates, and liability to search.

7. Closing and reporting of sections of the industrial establishment, temporary stoppages of work and the rights and liabilities of the employer and workers arising therefrom.

8. Termination of employment, and the notice thereof to be given by employer and workers.

9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.

10. Means of redress for workers against unfair treatment or wrongful exactions by the employer or his agents or servants.

11. Any other matter which may be specified by the appropriate Government by notification.

THE SECOND SCHEDULE

[*See* sections 2 (*zj*), 84 and 86 (*5*)]

UNFAIR LABOUR PRACTICES

I. ON THE PART OF EMPLOYERS AND TRADE UNIONS OF EMPLOYERS

(*1*) To interfere with, restrain from, or coerce, workers in the exercise of their right to organise, form, join or assist a Trade Union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say,—

(*a*) threatening workers with discharge or dismissal, if they join a Trade Union;

(*b*) threatening a lock-out or closure, if a Trade Union is organised;

(*c*) granting wage increase to workers at crucial periods of Trade Union organisation, with a view to undermining the efforts of the Trade Union organisation.

(*2*) To dominate, interfere with or contribute support, financial or otherwise, to any Trade Union, that is to say,—

(*a*) an employer taking an active interest in organising a Trade Union of his workers; and

(*b*) an employer showing partiality or granting favour to one of several Trade Unions attempting to organise his workers or to its members, where such a Trade Union is not a recognised Trade Union.

(*3*) To establish employer sponsored Trade Unions of workers.

(*4*) To encourage or discourage membership in any Trade Union by discriminating against any worker, that is to say,—

(*a*) discharging or punishing a worker, because he urged other workers to join or organise a Trade Union;

(*b*) discharging or dismissing a worker for taking part in any strike (not being a strike which is deemed to be an illegal strike under this Code);

(*c*) changing seniority rating of workers because of Trade Union activities;

(*d*) refusing to promote workers to higher posts on account of their Trade Union activities;

(*e*) giving unmerited promotions to certain workers with a view to creating discord amongst other workers, or to undermine the strength of their Trade Union;

(*f*) discharging office-bearers or active members of the Trade Union on account of their Trade Union activities.

(*5*) To discharge or dismiss workers—

(*a*) by way of victimisation;

(*b*) not in good faith, but in the colourable exercise of the employer's rights;

(*c*) by falsely implicating a worker in a criminal case on false evidence or on concocted evidence;

(*d*) for patently false reasons;

(*e*) on untrue or trumped up allegations of absence without leave;

(*f*) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;

(*g*) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of the worker, thereby leading to a disproportionate punishment.

(*6*) To abolish the work of a regular nature being done by workers, and to give such work to contractors as a measure of breaking a strike.

(*7*) To transfer a worker *mala fide* from one place to another, under the guise of following management policy.

(*8*) To insist upon individual workers, who are on a legal strike to sign a good conduct bond, as a precondition to allowing them to resume work.

(*9*) To show favouritism or partiality to one set of workers regardless of merit.

(*10*) To employ workers as *badli* workers, casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workers.

(*11*) To discharge or discriminate against any worker for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.

(*12*) To recruit worker during a strike which is not an illegal strike.

(*13*) Failure to implement award, settlement or agreement.

(*14*) To indulge in acts of force or violence.

(*15*) To refuse to bargain collectively, in good faith with the recognised Trade Unions.

(*16*) Proposing or continuing a lock-out deemed to be illegal under this Code.

II. ON THE PART OF WORKERS AND TRADE UNIONS OF WORKERS

(*1*) To advise or actively support or instigate any strike deemed to be illegal under this Code.

(*2*) To coerce workers in the exercise of their right to self-organisation or to join a Trade Union or refrain from, joining any Trade Union, that is to say,—

(*a*) for a Trade Union or its members to picketing in such a manner that non-striking workers are physically debarred from entering the work places;

(*b*) to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workers or against managerial staff.

(*3*) For a recognised union to refuse to bargain collectively in good faith with the employer.

(*4*) To indulge in coercive activities against certification of a bargaining representative.

(*5*) To stage, encourage or instigate such forms of coercive actions as wilful,"go-slow", squatting on the work premises after working hours or "gherao" of any of the members of the managerial or other staff.

Explanation 1.—For the removal of doubts, it is clarified that "go-slow" shall mean an occasion when more than one worker in an establishment conjointly work more slowly and with less effort than usual to try to persuade the employer of the establishment to agree to higher pay or better service condition or such other demand.

Explanation 2.—For the purposes of *Explanation* 1, the expression "usual" shall mean,—

(*i*) where the standard has been specified for a worker for his work either daily, weekly or monthly basis, such work; and

(*ii*) where no such standard has been specified such rate of work which is the average of work in the previous three months calculated on daily or weekly or monthly basis, as the case may be.

(*6*) To stage demonstrations at the residence of the employers or the managerial staff members.

(*7*) To incite or indulge in wilful damage to employer's property connected with the industry.

(*8*) To indulge in acts of force or violence or to hold out threats of intimidation against any worker with a view to prevent him from attending work.

THE THIRD SCHEDULE

(*See* section 40)

CONDITIONS OF SERVICE FOR CHANGE OF WHICH NOTICE IS TO BE GIVEN

1. Wages, including the period and mode of payment;

2. Contribution paid, or payable, by the employer to any provident fund or pension fund or for the benefit of the workers under any law for the time being in force;

3. Compensatory and other allowances;

4. Hours of work and rest intervals;

5. Leave with wages and holidays;

6. Starting, alteration or discontinuance of shift working otherwise than in accordance with standing orders;

7. Classification by grades;

8. Withdrawal of any customary concession or privilege or change in usage;

9. Introduction of new rules of discipline, or alteration of existing rules, except in so far as they are provided in standing orders;

10. Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of workers;

11. Any increase or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift, not occasioned by circumstances over which the employer has no control.

STATEMENT OF OBJECTS AND REASONS

The Second National Commission on Labour, which submitted its report in June 2002, had recommended that the existing set of labour laws should be broadly amalgamated into the following groups, namely:—

(*a*) industrial relations;

(*b*) wages;

(*c*) social security;

(*d*) safety; and

(*e*) welfare and working conditions.

2. In pursuance of the recommendations of the said Commission and the deliberations made in the tripartite meeting comprising of the Government, employers' and industry representatives, it has been decided to bring the proposed legislation. The proposed legislation intends to amalgamate, simplify and rationalise the relevant provisions of the following three central labour enactments relating to industrial relations, namely:—

(*a*) the Trade Unions Act, 1926;

(*b*) the Industrial Employment (Standing Orders) Act, 1946; and

(*c*) the Industrial Disputes Act, 1947.

3. The amalgamation of the said laws will facilitate the implementation and also remove the multiplicity of definitions and authorities without compromising on the basic concepts of welfare and benefits to workers. The proposed legislation, namely, the Industrial Relations Code, 2019 would bring the use of technology in its enforcement. All these measures would bring transparency and accountability which would lead to more effective enforcement. The facilitation for ease of compliance of labour laws will promote in setting up of more enterprises thus catalysing the creation of employment opportunities.

4. The salient features of the Industrial Relations Code, 2019, *inter alia*, are as follows:—

(*a*) to define the expression “fixed term employment” to mean engagement of a worker on the basis of a written contract of employment for a fixed period. The fixed term employee will get all statutory benefits like social security, wages, etc., at par with the regular employee who is doing work of same or similar nature;

(*b*) to define the term "industry" with certain exceptions;

(*c*) the definition of "strike" is proposed to be modified to include mass casual leave within its ambit;

(*d*) to define the term "worker" to include persons in supervisory capacity getting wages up to fifteen thousand rupees within its ambit. At present, under the Industrial Disputes Act, 1947, definition of "worker" includes person in supervisory capacity getting salary up to ten thousand rupees per month;

(*e*) to provide for the obligation on the part of the industrial establishment pertaining to mines, factories and plantation having one hundred or more workers to take prior permission of the appropriate Government before lay-off, retrenchment or closure. However, the appropriate Government is proposed to be empowered to modify such threshold number of workers by notification;

(*f*) to set up a re-skilling fund for training of retrenched employees, to which the employers will pay a contribution of fifteen days wages or such other days as may be notified by the Central Government in case of retrenchment of workers;

(*g*) to provide for a sole negotiating union in an industrial establishment for negotiating with the employer of the industrial establishment, on such matters as may be provided by rules. In case of more than one Trade Union of workers, a Trade Union

would be designated as a sole negotiating union if it has support of seventy-five per cent. or more of the workers on the muster roll in an establishment and if no Trade Union has such support strength on the muster roll of an establishment, then a negotiating council will be constituted for negotiation;

(*h*) to provide for Industrial Tribunal to be the adjudicating body to decide appeals against the decision of the conciliation officer in place of multiple adjudicating bodies like Court of Inquiry, Board of Conciliation and Labour Courts;

(*i*) the maximum number of members in the Grievance Redressal Committee has been increased from six to ten;

(*j*) provisions are being made to have two member Industrial Tribunals, with second member being from administrative side, in place of single member Labour Court and Industrial Tribunal at present. Further, the Tribunal will be empowered to execute the award as a decree of a civil court, which will facilitate speedy disposal of disputes;

(*k*) to provide for continuation of services of Presiding Officers of the existing adjudicating authorities;

(*l*) to provide that reference by the Government will not be required for Industrial Tribunal, except the National Industrial Tribunal;

(*m*) to prohibit strikes and lock-outs in any industrial establishment without giving notice of fourteen days and also during the pendency of conciliation proceedings;

(*n*) to provide for penalties for different types of violations to rationalise with such offences and commensurate with the gravity of the violations;

(*o*) to empower the appropriate Government to appoint officers for holding enquiry and impose penalty in certain contraventions punishable with fine up to fifty thousand rupees;

(*p*) to provide for compounding of offences which are not punishable with imprisonment.

5.The notes on clauses explain in detail the various provisions contained in the Bill.

6.The Bill seeks to achieve the above objectives.

NEW DELHI; SANTOSH KUMAR GANGWAR.
The 21*st November,* 2019.

Notes on Clauses

Clause 2 of the Bill seeks to define certain expressions used in the proposed Code, which, *inter alia*, include 'appropriate Government', 'industry', 'lay-off', 'lock-out', 'Tribunal', 'unfair labour practice', 'unorganised sector' and 'wages'.

Clause 3 of the Bill provides for Works Committee. Works Committee shall consist of representatives of employer and workers and the representatives of workers on the committee shall not be less than the number of representatives of the employer. The duty of the Works Committee, *inter alia*, shall be to promote measures for securing and preserving amity and good relations between the employer and workers.

Clause 4 of the Bill provides for Grievance Redressal Committee. The threshold limit for constituting Grievance Redressal Committee for the resolution of disputes arising out of grievances of individual workers is twenty or more workers employed in the concerned industrial establishment. The said clause contains provisions for filing application in respect of dispute by the aggrieved worker, the constitution of Grievance Redressal Committee including selection of its Chairpersons, the maximum number of the committee, the time limit for completing its proceedings, the manner of its decision, and the filing the application for the adjudication against the decision of the Grievance Redressal Committee or the adjudication of grievance which is not resolved in the committee within thirty days.

Clause 5 of the Bill provides for Registrar of Trade Unions. The Registrar, Additional Registrar, Joint Registrar and Deputy Registrar of a Trade Union shall be appointed by the State Government by notification and their respective powers and duties shall be specified in the notification and the other officers shall be deemed to be Registrar subject to the order of the State Government in relation to the Trade Union, office of which exist within the area of jurisdiction.

Clause 6 of the Bill provides for the criteria for registration of a Trade Union. Seven or more members of a Trade Union may apply for its registration and the Trade Union connected with the establishment or industry shall be registered only at least ten per cent. of the workers or one hundred workers of the establishment or industry or the member of the Trade Union. It also provides that the application of registration shall not be invalid for the fact that after filing the application and before registration not exceeding half of the total number of persons who made the application have ceased to be members or dissociated from the application. It is further required that after registration not less than ten per cent. of the workers or one hundred workers, whichever is less of such establishment or industry subject to a minimum of seven shall at all time continue to be the members of the Trade Union.

Clause 7 of the Bill provides for provisions to be contained in constitution or rules of Trade Union. In case the matters specified in the said clause are not provided in the rules of the Trade Union and the executive of the Trade Union is not constituted in accordance with the provisions of the proposed Code.

Clause 8 of the Bill provides for application for registration, alteration of name and procedure thereof. Every application for registration of a Trade Union shall be made to the Registrar in the manner as may be provided by rules.

Clause 9 of the Bill provides for registration and cancellation of Trade Union. Where the Registrar is satisfied that the application for registration is complete make an order within forty-five days for granting or refusing to grant registration and communicate the same to the applicant Trade Union electronically or otherwise. For refusing the registration the Registrar has to give reason. On registration the Registrar shall issue to the applicant Trade Union a certificate of registration which shall be the conclusive evidence of registration and enter the name and other particulars in the register. Trade Union registered under the Trade Unions Act, 1926 having valid registration immediately before the commencement of the proposed Code shall be deemed to have been registered under that Code. It also provides for withdrawal or cancellation of the certificate of registration.

Clause 10 of the Bill provides for appeal against non-registration or cancellation of registration. Any person aggrieved by the refusal to grant registration of a Trade Union, or cancellation of a certificate of registration of a Trade Union, by Registrar may within period specified by rules prefer an appeal to the Tribunal. The Tribunal has power to condone the delay on its satisfaction in filing the appeal. The Tribunal may, after giving hearing to the parties dismiss the appeal or pass an order for registration of the Trade Union and to issue a certificate of registration or set aside the order of cancellation of the certificate of registration and forward a copy of order to the Registrar.

Clause 11 of the Bill provides for communication to Trade Union and change in its registration particulars. All communications and notices to a registered Trade Union shall be addressed to the head office of the Trade Union as entered in the register maintained by the Registrar.

Clause 12 of the Bill provides for incorporation of a registered Trade Union.

Clause 13 of the Bill provides for certain Acts not to apply to registered Trade Unions as mentioned in the said clause.

Clause 14 of the Bill provides for recognition of negotiating union or negotiating council for negotiating with the employer of the industrial establishment. Any recognition made under sub-clause (2) or sub-clause (3) or the negotiating council constituted under sub-clause (4) shall be valid for three years from the date of recognition or constitution.

Clause 15 of the Bill provides for objects of general fund, composition of separate fund and membership fee of the Trade Union. The general funds of a registered Trade Union shall not be spent on any objects other than such as may be prescribed objects.

Clause 16 of the Bill provides for immunity from civil suit in certain cases. No suit or other legal proceeding shall be maintainable in any civil court against any registered Trade Union or any office-bearer or member thereof in certain cases as specified in the clause.

Clause 17 of the Bill provides for criminal conspiracy in furtherance of objects of Trade Union. No office-bearer or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code, unless such agreement is an agreement to commit an offence.

Clause 18 of the Bill provides for enforceability of agreements. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade.

Clause 19 of the Bill provides for the right of an office-bearer or member of the Trade Union to inspect books of Trade Union.

Clause 20 of the Bill provides for rights of minor to membership of Trade Union. Any person who has attained the age of fourteen years may be a member of a registered Trade Union subject to any rules of the Trade Union.

Clause 21 of the Bill provides for disqualification of office-bearers of Trade Unions. A person shall be disqualified for being chosen as, and for being, a member of the executive or any other office-bearer of a registered Trade Union for the reasons as mentioned in the clause.

Clause 22 of the Bill provides for adjudication of disputes of Trade Unions. In case of a registered Trade Union, where a dispute arises between the parties as specified in the clause, an application may be made in manner as may be prescribed, to the Tribunal having jurisdiction.

Clause 23 of the Bill provides for proportion of office-bearers to be connected with industry. Not less than one-half of the total number of the office-bearers of every registered Trade Union in an unorganised sector shall be persons actually engaged or employed in an establishment or industry with which the Trade Union is connected.

Clause 24 of the Bill provides for change of name, amalgamation, notice of change and its effect as provided in the clause.

Clause 25 of the Bill provides for dissolution of a registered Trade Union in the manner as prescribed in the clause.

Clause 26 of the Bill provides for filing of annual returns by Trade Union.

Clause 27 of the Bill seeks to provide for recognition of Trade Unions at Central and State level in the manner as specified in the clause by the Central Government and State Government respectively.

Clause 28 of the Bill provides for application of Chapter IV of the proposed Code. The provisions of said Chapter IV shall apply to every industrial establishment wherein one hundred or more than one hundred as may be notified by the appropriate Government, are employed, or were employed on any day of the preceding twelve months.

Clause 29 of the Bill provides for making of model standing orders by Central Government and temporary application. The Central Government shall make model standing orders relating to conditions of service and other matters incidental thereto or connected therewith.

Clause 30 of the Bill provides for preparation of draft standing orders by employer and procedure for certification in the manner as specified in the clause.

Clause 31 of the Bill provides for certifying officers to have powers of civil court. Every certifying officer shall have all the powers of a civil court for the purposes of receiving evidence, administering oath, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a civil court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

Clause 32 of the Bill provides for appeals as specified in the clause.

Clause 33 of the Bill provides for date of operation of standing orders and its availability as specified in the clause.

Clause 34 of the Bill provides for register of standing orders. A copy of all standing orders as finally certified under this Code shall be filed by the certifying officer in the form as may be prescribed and for the purpose as specified in the clause.

Clause 35 of the Bill provides for duration and modification of standing orders. An employer or worker or a Trade Union or other representative body of the workers may apply to the certifying officer to have the standing orders modified in such application as may be prescribed subject to provision of sub-clause (*1*) of the said clause.

Clause 36 of the Bill provides for non-admissibility of oral evidence in contradiction of standing orders.

Clause 37 of the Bill provides for interpretation, etc., of standing orders as specified in the clause.

Clause 38 of the Bill provides for time limit for completing disciplinary proceedings and liability to pay subsistence allowance as specified in the clause.

Clause 39 of the Bill provides for power to exempt. Appropriate Government may, by notification, exempt, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of Chapter IV.

Clause 40 of the Bill provides for notice of change. No employer, who proposes to effect any change in the conditions of service applicable to any worker in respect of any matter specified in the Third Schedule, shall effect such change as specified in the clause.

Clause 41 of the Bill provides for power of appropriate Government to exempt. Where the appropriate Government is of the opinion that the application of the provisions of clause 40 to any class of industrial establishments or to any class of worker employed in any

industrial establishment affect the employers. Such Government may, by notification, direct that the provisions of the said clause shall not apply or shall apply, subject to such conditions as may be specified in the notification, to that class of industrial establishments or to that class of workers employed in any industrial establishment.

Clause 42 of the Bill provides for voluntary reference of disputes to arbitration as specified in the clause.

Clause 43 of the Bill provides for conciliation officers. The appropriate Government may, by notification, appoint such number of persons, as it thinks fit to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

Clause 44 of the Bill provides for constitution of one or more Industrial Tribunal and filling of vacancy for the purpose as specified in the clause.

Clause 45 of the Bill provides for finality of constitution of Tribunal. No notification of appropriate Government, act or proceeding before a tribunal shall be called in question in any manner mainly relating to existence of any vacancy in, or defect in constitution of tribunal.

Clause 46 of the Bill provides for constitution of one or more National Industrial Tribunal by the Central Government.

Clause 47 of the Bill provides for the decision of Tribunal or National Industrial Tribunal. The decision of a Tribunal or a National Industrial Tribunal, as the case may be, shall be by consensus of the members. In case of difference of opinion the reference is to be made to the appropriate Government in the manner as specified in the clause.

Clause 48 of the Bill provides for disqualifications for members of Tribunal, and National Industrial Tribunal on the ground of not being an independent person or has attained the age of sixty five years.

Clause 49 of the Bill provides for procedure and powers of arbitrator, conciliation officer, Tribunal and National Industrial Tribunal.

Clause 50 of the Bill provides for powers of Tribunal and National Industrial Tribunal to give appropriate relief in case of discharge or dismissal of worker.

Clause 51 of the Bill provides for transfer of pending cases. On and from the date of commencement of the proposed Code, the cases pending immediately before such commencement in Labour Court, Industrial Tribunal, and National Tribunal constituted under the Industrial Disputes Act, 1947 shall be transferred to the Tribunal and National Industrial Tribunal, respectively having corresponding jurisdiction under the proposed Code.

Clause 52 of the Bill provides for adjustment of services of presiding officers under repealed Act as specified under the clause.

Clause 53 of the Bill provides for conciliation and adjudication of dispute as specified in the clause.

Clause 54 of the Bill seeks to provide for functions of National Industrial Tribunal. The Central Government may refer an industrial dispute to a National Industrial Tribunal which in the opinion of such Government involves question of national importance or is of such nature that Industries situated in more than one State are interested or affected by such industrial dispute.

Clause 55 of the Bill provides for form of award its communication and commencement as specified in the clause.

Clause 56 of the Bill provides for payment of full wages to worker pending proceedings in higher Courts. In any case, where a Tribunal or a National Industrial Tribunal by its award directs reinstatement of any worker and the employer prefers any proceedings against such

award in a High Court or the Supreme Court, the employer shall be liable to pay such worker, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him as may be provided by rules.

Clause 57 of the Bill provides for persons on whom settlements and awards are binding. A settlement arrived at by agreement between the employer and worker otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

Clause 58 of the Bill provides for period of operation of settlements and awards. A settlement shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute. An award shall, subject to the provisions of this clause, remain in operation for a period of one year from the date on which the award becomes enforceable under clause 53.

Clause 59 of the Bill provides for recovery of money due from employer in the manner a specified in the clause.

Clause 60 of the Bill provides for commencement and conclusion of proceedings. A conciliation proceeding shall be deemed to have commenced on the date on which the first meeting is held by the conciliation officer after the receipt of the notice of strike or lockout by the conciliation officer. A conciliation proceeding shall be deemed to have concluded as specified in the clause.

Clause 61 of the Bill seeks to provides that certain matters are to be kept confidential in the manner as specified in the clause.

Clause 62 of the Bill seeks to prohibit strikes and lock-out. No person employed in industrial establishment shall go on strike in breach of contract for the reasons as specified in the sub-clause (*1*) of the said clause. No employer of an industrial establishment shall lock-out any of his workers for the reasons as specified in the sub-clause (*2*) of the said clause.

Clause 63 of the Bill provides that strike or lock-out shall be illegal if it is not done in the manner as specified in the clause.

Clause 64 of the Bill seeks to prohibit financial aid to illegal strikes or lock-outs.

Clause 65 of the Bill provides for application of clauses 67 to 69. It, *inter alia*, provides that the provisions of clauses 67 to 69, relating to rights of workers laid off for compensation, etc., and duty of an employer to maintain muster roll of workers who are not entitled to compensation in certain cases, shall not apply to industrial establishments to which provisions of Chapter X of the proposed Code, which are special provisions relating to lay off, retrenchment and closure in certain establishments applies, and shall also not apply to industrial establishments in which less than 50 workers on average per working day have been employed in the preceding calendar month and to industrial establishments which are of seasonal character in which working is performed intermittently.

Clause 66 of the Bill provides for definition of continuous service. Continuous service in relation to a worker means the uninterrupted service of such worker, including his service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal or a lock-out or a cessation of work which is not due to any fault on the part of the worker.

Clause 67 of the Bill provides for rights of workers laid-off for compensation, etc. A worker (other than a *badli* worker or a casual worker) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him, had he not been so laid-off.

Clause 68 of the Bill provides for duty of an employer to maintain muster rolls of workers.

Clause 69 of the Bill provides for workers not entitled for compensation in certain cases. No compensation shall be paid to a worker who has been laid-off for the reasons as specified in the clause.

Clause 70 of the Bill provides for conditions precedent to retrenchment of workers. No worker employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer except for reasons mentioned in the clause.

Clause 71 of the Bill provides for procedure for retrenchment as specified in the clause. The employer shall ordinarily retrench the worker who was the last person employed in that category subject to the agreement made between them in this behalf. For the reasons to be recorded the employer can retrench any other worker.

Clause 72 of the Bill provides for re-employment of retrenched worker. Any retrenched worker may be re-employed within one year of such retrenchment as may be provided by rules.

Clause 73 of the Bill provides for compensation to workers in case of transfer of establishment as specified in the clause.

Clause 74 of the Bill provides for sixty days' notice to be given of intention to close down any undertaking. An employer who intends to close down an undertaking shall serve, at least sixty days to the appropriate Government before the date on which the intended closure is to become effective, a notice, in such manner as may be provided by rules.

Clause 75 of the Bill provides for compensation to workers in case of closing down of undertakings. Where an establishment is closed down for any reason whatsoever, every worker who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-clause (*2*), be entitled to notice and compensation in accordance with the provisions of clause 70, which provides for the conditions precedent to retrenchment of workers.

Clause 76 of the Bill provides for effect of laws inconsistent with Chapter IX of the proposed Code. The provisions of said Chapter IX shall have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under Chapter IV of the proposed Code.

Clause 77 of the Bill provides for application of Chapter X of the proposed Code. The provisions of said Chapter X shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than one hundred workers, or such number of workers as may be notified by the appropriate Government, were employed on an, average per working day in the preceding twelve months. For the purposes of said Chapter X Industrial establishment means a factory, a mine and a plantation.

Clause 78 of the Bill provides for prohibition of lay-off. No worker (other than a *badli* worker or a casual worker) whose name is borne on the muster rolls of an industrial establishment to which Chapter X of the proposed Code applies shall be laid-off by his employer except with the prior permission of the appropriate Government or such authority as may be specified by that Government by notification.

Clause 79 of the Bill provides for conditions precedent to retrenchment of workers to which Chapter X of the proposed Code applies. No worker employed in any industrial establishment who has been in continuous service for not less than one year under an employer shall be retrenched by that employer except for reasons mentioned in the clause.

Clause 80 of the Bill provides for procedure for closing down an undertaking. An employer who intends to close down an undertaking of an industrial establishment to which

Chapter X of the proposed Code applies shall, in the manner as may be provided by rules, apply, for prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government.

Clause 81 of the Bill provides for duty of an employer to maintain muster rolls of workers and to provide for the making of entries therein by workers who may present themselves for work at the establishment at the appointed time during normal working hours.

Clause 82 of the Bill provides for certain provisions of Chapter IX of the proposed Code to be applied to industrial establishment to which the Chapter containing clause 82 applies. The provisions of clauses 66, 71, 72, 73 and 76 in said Chapter IX shall, so far as may be, apply also in relation to an industrial establishment to which the provisions of Chapter X of the Code apply.

Clause 83 of the Bill provides for worker re-skilling fund. The appropriate Government shall, by notification, set up a fund to be called the worker re-skilling fund, referred to in the clause as "fund". The fund shall consist of contribution as mentioned in the clause.

Clause 84 of the Bill provides for prohibition of unfair labour practice. Employer or worker or a Trade Union, whether registered under proposed Code, or not, is prohibited from practicing unfair labour practice specified in the Second Schedule.

Clause 85 of the Bill provides for power of officers of appropriate Government to impose penalty in certain cases as specified in the clause.

Clause 86 of the Bill provides for penalties. Any person, employer, every office bearer or other person bound by the rules of the Trade Union shall be punished for the reasons as specified in the clause.

Clause 87 of the Bill provides for cognizance of offences. This provision bars the court to take cognizance of any offence punishable under the proposed Code, save on a complaint made by or under the authority of the appropriate Government.

Clause 88 of the Bill provides for offences by companies. If the person committing an offence under the proposed Code is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Clause 89 of the Bill provides for composition of offences as provided under the clause.

Clause 90 of the Bill provides for conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings. Such conditions of service of the workers relates to the pending industrial dispute.

Clause 91 of the Bill provides for special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings.

Clause 92 of the Bill provides for power to transfer certain proceedings. Such transfer relate to the transfer of proceeding pending before a Tribunal to another Tribunal by the appropriate Government. The Central Government is empowered to withdraw a pending proceeding from a Tribunal and to transfer the same to the National Industrial Tribunal as specified in the clause. The Central Government may empower a Tribunal constituted by the State Government to entertain and dispose of the cases arising within their respective jurisdiction under the provisions of the proposed Code where the appropriate Government is the Central Government.

Clause 93 of the Bill provides for protection of persons. The persons refusing to take part or to continue to take part in any illegal strike or lock-out are protected under the clause.

Clause 94 of the Bill provides for representation of parties. A worker and an employer who is a party to a dispute shall be entitled to be represented in any proceeding under the proposed Code by representations specified in the clause.

Clause 95 of the Bill provides for removal of doubts in interpretation of award or settlement. If, in the opinion of the appropriate Government, any difficulty or doubt arises as to the interpretation of any provision of an award or settlement, it may refer the question to such Tribunal or National Industrial Tribunal as it may think fit whose decision shall be final and binding on all such parties.

Clause 96 of the Bill provides for power to exempt. If appropriate Government is satisfied in relation to any industrial establishment or undertaking or any class of industrial establishments or undertakings that adequate provisions exist to fulfil the objects of any provision of the proposed Code, it may, by notification, exempt such establishment or undertaking or, class of establishments or undertakings from that provision of the proposed Code.

Clause 97 of the Bill provides for barring of jurisdiction of civil courts in respect of any matter to which any provision of the proposed Code applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under the proposed Code.

Clause 98 of the Bill provides for protection of a person from legal proceeding if action is taken in good faith in pursuance of the proposed Code.

Clause 99 of the Bill provides for power to make rules. The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of the proposed Code.

Clause 100 of the Bill provides for delegation of powers. The appropriate Government may, by notification, direct that any power exercisable by it under the proposed Code or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction as specified in the clause.

Clause 101 of the Bill provides for power to amend Schedules. The Central Government may, by notification, add to or alter or amend the First Schedule or the Second Schedule or the Third Schedule and on any such notification being issued, the First Schedule or the Second Schedule or the Third Schedule, as the case may be, shall be deemed to be amended accordingly.

Clause 102 of the Bill provides for amendment of the Finance Act, 2017 as specified in the clause.

Clause 103 of the Bill empowers the Central Government to remove difficulties by the order published in the Official Gazette. Such order shall not be made after the expiry of three years from the date on which the proposed Code comes into force.

Clause 104 of the Bill provides for repeal and savings. The enactments which are being repealed are enumerated in the clause.

FINANCIAL MEMORANDUM

Clause 44 of the Bill provides for the constitution of the Industrial Tribunal consisting of two members, namely, one Judicial Member and one Administrative Member. Similarly, clause 46 of the Bill provides for the National Industrial Tribunal consisting of two members, namely, one Judicial Member and one Administrative Member. At present, the Industrial Tribunal is comprised only of a Presiding Officer and similarly the National Industrial Tribunal is comprised of a Presiding Officer. In this way, the increase in the members of the both Industrial Tribunal and the National Industrial Tribunal will increase the expenditure from the Consolidated Fund of India, when the proposed Code will be enacted and brought into operation. Such expenditure is estimated to be twelve crore rupees as recurring and one crore rupees as non-recurring.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Certain provisions of the Bill empower the Central Government or the State Government or the appropriate Government, as the case may be, to issue notification for various purposes.

2. Sub-clause (*e*) of clause 2 of the Bill empowers the appropriate Government to appoint a certifying officer by notification to perform the functions of a certifying officer under the provisions of Chapter IV.

3. Sub-clause (*m*) of clause 2 of the Bill empowers the Central Government to specify any other activity which could be excluded from the definition of "industry".

4. Sub-clause (*l*) of clause 5 of the Bill empowers the State Government to appoint a person to be the Registrar of Trade Unions by notification, and other persons as Additional Registrar of Trade Unions, Joint Registrar of Trade Unions and Deputy Registrar of Trade Unions who shall exercise such powers and perform such duties of the Registrar as the State Government may, by notification, specify from time to time.

5. *Explanation* to sub-clause (*l*) of clause 23 of the Bill proposes to define "unorganised sector" to mean any sector which the appropriate Government may, by notification, specify empowers the appropriate Government to specify any sector as "unorganised sector".

6. Sub-clause (*l*) of clause 28 of the Bill provides that the appropriate Government may, after giving not less than sixty days notice of its intention so to do, by notification, apply the provisions of this Chapter IV to any industrial establishment employing such number of persons less than one hundred as may be specified in the notification.

7. Clause 39 of the Bill empowers the appropriate Government to exempt by notification, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of Chapter IV.

8. Clause 41 provides that where the appropriate Government is of the opinion that the application of the provisions of clause 40 to any class of industrial establishments or to any class of worker employed in any industrial establishment affect the employers in relation thereto so prejudicially that such application may cause serious repercussion on the industry concerned and that public interest so requires, the appropriate Government may, by notification, direct that the provisions of the said section shall not apply or shall apply, subject to such conditions as may be specified in the notification, to that class of industrial establishments or to that class of workers employed in any industrial establishment.

9. Sub-clause (*l*) of clause 43 of the Bill empowers the appropriate Government to appoint by notification such number of persons, as it thinks fit to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

10. Sub-clause (*l*) of clause 44 of the Bill empowers the appropriate Government to constitute by notification one or more Industrial Tribunals for the adjudication of industrial disputes and for performing such other functions as may be assigned to them under this Bill.

11. Sub-clause (*l*) of clause 46 of the Bill empowers the Central Government to constitute by notification one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of that Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

12. Clause 70 of the Bill, *inter alia*, provides that no worker employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until notice in such manner as may be provided by rules is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification.

13. Clause 77 of the Bill, *inter alia*, provides that the provisions of Chapter X shall apply to an industrial establishment (not being an establishment of a seasonal character or

in which work is performed only intermittently) in which not less than one hundred workers, or such number of workers as may be notified by the appropriate Government, were employed on an, average per working day in the preceding twelve months.

14. Sub-clause (*1*) of clause 83 empowers the appropriate Government to set up by notification a fund to be called the worker re-skilling fund.

15. Sub-clause (*1*) of clause 89 of the Bill empowers the appropriate Government to specify a Gazetted Officer for the purpose of compounding of offences in accordance with the provisions of the said clause.

16. Sub-clause (*3*) of clause 92 of the Bill provides that the Central Government may, by notification, and for reasons to be stated therein, empower a Tribunal constituted by the State Government to entertain and dispose of the cases arising within their respective jurisdiction under the provisions of the Bill where the appropriate Government is the Central Government.

17. Clause 96 of the Bill provides that where the appropriate Government is satisfied in relation to any industrial establishment or undertaking or any class of industrial establishments or undertakings carried on by a department of that Government that adequate provisions exist to fulfil the objects of any provision of this Bill, it may, by notification, exempt, conditionally or unconditionally such establishment or undertaking or, class of establishments or undertakings from that provision of this Code.

18. Sub-clause (*1*) of clause 101 empowers the Central Government to add to or alter or amend by notification the First Schedule or the Second Schedule or the Third Schedule and sub-clause (*2*) of the said clause provides that every such notification issued by the Central Government is required to be laid before each House of Parliament.

19. Sub-clause (*1*) of clause 99 empowers the appropriate Government, subject to the condition of previous publication, to make rules for carrying out the provisions of the proposed legislation. Sub-clause (*2*) specifies the matters in respect of which such rules may be made. These matters, *inter alia*, include: (*a*) written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding to arrive at a settlement under sub-clause (*zd*) of clause 2; (*b*) constitution of Works Committee and choosing of representatives of employer and workers engaged in the establishment under clause 3; (*c*) manner of choosing members from the employer and the workers for Grievance Redressal Committee under sub-clause (*2*) of clause 4; (*d*) application in respect of any dispute to be filed before the Grievance Redressal Committee by any aggrieved worker under sub-clause (*5*) of clause 4; (*e*) manner of filing application for the conciliation of grievance as against the decision of the Grievance Redressal Committee to the conciliation officer under sub-clause (*8*) of clause 4; (*f*) the payment of a subscription by members of the Trade Union and donation from such members and others under sub-clause (*f*) of clause 7; (*g*) manner of annual audit under sub-clause (*j*) of clause 7; (*h*) form of declaration to be made by an affidavit and the manner of making the same under sub-clause (*1*) of clause 8; (*i*) general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars under sub-clause (*2*) of clause 8; (*j*) the form of application for registration under sub-clause (*1*), and the form of issuing certificate of registration to be issued by the Registrar to the applicant Trade Union under sub-clause (*2*) of clause 9; (*k*) the form of entering the name and other particulars of Trade Union in a register maintained by the Registrar in this behalf under sub-clause (*3*) of clause 9; (*l*) verification of application of the Trade Union under sub-clause (*5*) of clause 9; (*m*) period within which appeal is to be preferred by Trade Union to Tribunal under sub-clause (*1*) of clause 10; (*n*) sending of communication and notices under sub-clause (*1*) and the manner to inform the Registrar under sub-clause (*2*) of clause 11; (*o*) matters on which negotiating union or negotiating council, as the case may be, in an industrial establishment may negotiate with the employer of the industrial establishment under sub-clause (*1*) of clause 14; (*p*) manner of verification of workers on the muster roll of the industrial establishment, under sub-clauses (*3*) and (*4*)

and the facilities to be provided by industrial establishment to a negotiating union or negotiating council under sub-clause (*7*) of clause 14; (*q*) the objects under sub-clause (*1*) and sub-clause (*2*) and the subscription payable under sub-clause (*4*) of clause 15; (*r*) manner of making application for adjudication before the Tribunal under sub-clause (*1*) of clause 22; (*s*) the manner of amalgamation under sub-clause (*2*), and the manner of sending signed amalgamation to the Registrar of different State under sub-clause (*3*) of clause 24; (*t*) distribution of funds of the Trade Union on dissolution by Registrar under sub-clause (*2*) of clause 25; (*u*) the date before which a general statement shall be forwarded annually to the Registrar, the particulars to be contained in general statement and its form, the person by whom and the manner in which such general statement shall be audited under sub-clause (*1*) of clause 26; (*v*) manner of recognition of a Trade Union or a federation of Trade Unions by the State Government as a State Trade Union at the State level and the authority and the manner of deciding dispute by it under sub-clause (*2*) of clause 27; (*w*) manner of choosing representatives of the workers of the industrial establishment or undertaking for issuing notice by certifying officer, where there is no Trade Union operating, under sub-clause (*4*) of clause 30; (*x*) manner of authentication of certified standing orders under sub-clause (*7*) of clause 30; (*y*) statement to be accompanied with draft standing orders under sub-clause (*8*) of clause 30; (*z*) conditions for submission of draft standing orders by group of employers in similar establishment under sub-clause (*9*) of clause 30; (*za*) manner of disposal of appeal by the appellate authority under clause 32; (*zb*) the manner of sending copies of the order of the appellate authority under sub-clause (*1*) and the language and the manner of maintaining standing order under sub-clause (*2*) of clause 33; (*zc*) form of register for filing finally certified standing orders by the certifying officer and fee for furnishing certified copy of such orders under clause 34; (*zd*) application for modification of standing orders to be made before certifying officer under sub-clause (*2*) of clause 35; (*ze*) the manner of giving of notice of the nature of the change proposed to be effected under sub-clause (*i*) of clause 40; (*zf*) form of arbitration agreement and the manner to be signed by the parties thereto under sub-clause (*3*) of clause 42; (*zg*) manner of registration of arbitration agreement by conciliation officer under sub-clause (*4*) of clause 42; (*zh*) manner of issuance of notification where an industrial dispute has been referred to arbitration under sub-clause (*5*) of clause 42; (*zi*) manner of choosing representatives of the workers where there is no Trade Union under the proviso to sub-clause (*5*) of clause 42; (*zj*) manner of filling up the vacancy under sub-clause (*11*) of clause 44; (*zk*) the procedure for selection, salaries and allowances and other terms and conditions of Judicial and Administrative Members of the National Industrial Tribunal under sub-clause (*6*) of clause 46; (*zl*) such other matters in respect of which a conciliation officer, Tribunal and National Industrial Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure,1908 under sub-clause (*3*) of clause 49; (*zm*) manner of holding conciliation proceedings under sub-clause (*1*), form of full report under sub-clause (*4*), and the form of application and the manner of deciding such application under sub-clause (*6*) of clause 53; (*zn*) the number of persons by whom the notice of strike shall be given, the person or persons to whom such notice shall be given, and the manner of giving such notice, under sub-clause (*4*) of clause 62; (*zo*) manner of giving notice of lock-out under sub-clause (*5*) and the authority under sub-clause (*6*) of clause 62; (*zp*) manner of serving notice before retrenchment of a worker employed in the industry who has been in continuous service for not less than one year by an employer on the appropriate Government or such authority as may be specified by the appropriate Government by notification under sub-clause (*c*) of clause 70; (*zq*) manner in which the employer shall give an opportunity to the retrenched workers who are citizens of India to offer themselves for re-employment under clause 72; (*zr*) manner in which the employer shall serve notice on the appropriate Government stating clearly the reasons for the intended closure of the undertaking under sub-clause (*1*) of clause 74; (*zs*) manner of making application by the employer stating clearly the reasons for the intended lay-off and the manner of serving copy of such application to workers under sub-clause (*2*) of clause 78; (*zt*) manner of applying to the appropriate Government or the specified authority for permission to continue the lay-off by the employer under sub-clause (*3*) of clause 78; (*zu*) time limit for

review under sub-clause (*7*) of clause 78; (*zv*) manner of making application by the employer stating clearly the reasons for the intended retrenchment and the manner of serving copy of such application to workers under sub-clause (*2*) of clause 79; (*zw*) time limit for review under sub-clause (*6*) of clause 79; (*zx*) manner of making application by the employer stating clearly the reasons for the intended closing down of an undertaking of an industrial establishment and the manner of serving copy of such application to the representatives of workers under sub-clause (*1*) of clause 80; (*zy*) time limit for review under sub-clause (*5*) of clause 80; (*zz*) contribution from such other sources to be made to the worker re-skilling fund under sub-clause (*2*) of clause 83; (*zza*) manner of utilisation of fund under sub-clause (*3*) of clause 83; (*zzb*) manner of composition of offence by a Gazetted Officer specified under sub-clause (*1*) of clause 89; (*zzc*) manner of making application for the compounding of an offence specified under sub-clause (*4*) of clause 89; (*zzd*) manner of making complaint by an aggrieved employee under clause 91; (*zze*) manner of authorisation of worker for representing in any proceeding under sub-clause (*1*) of clause 94; (*zzf*) manner of authorisation of employer for representing in any proceeding under sub-clause (*2*) of clause 94; and (*zzg*) any other matter which is required to be, or may be, prescribed under the provisions of this Code.

20. Sub-clause (*4*) of clause 99 of the Bill empowers the Central Government to make rules for the manner of recognition of a Trade Union or federation of Trade Unions by the Central Government as a Central Trade Union at the Central level and the authority and the manner of deciding dispute by it under sub-clause (*1*) of clause 27 and the manner of holding an enquiry under sub-clause (*1*) of clause 85.

21. Sub-clause (*4*) of clause 99 provides that every rule made under the said clause is required to be laid before State Legislature and sub-clause (*5*) of the said clause provides that every rule made by the Central Government is required to be laid before each House of Parliament.

22. The matters in respect of which rules may be made are matters of procedure or administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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SNEHLATA SHRIVASTAVA
Secretary-General

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